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AN HISTORICAL
ESSAY
UPON THE
GOVERNMENT
OF THE
Church of ENGLAND,

FROM THE
EARLIEST to the PRESENT TIMES.

EXHIBITING

The true CAUSES of the SEPARATION from
Rome, in the Reign of *Henry VIII.* And the
Review — intended at the REVOLUTION.

WITH

A VINDICATION of the MEASURES of *Henry VIII.*
Edward VI. and Queen *Elizabeth*, from the Calumnies of a
Popish Writer, published in the First and Second Volumes of
an History, entitled, *The Church History of ENGLAND*, from
the Year 1500, to the Year 1688, chiefly with Regard to
Catholicks.

BEING

A Compleat ACCOUNT of the Divorce, Supremacy, Dissolution
of Monasteries, and first Attempts for a Reformation under
King *Henry VIII.* the unsettled State of the Reformation under
Edward VI. the Interruption it met with from Queen *Mary*,
with the last Hand put to it by Queen *Elizabeth*.

And a P R E F A C E,

Containing a SUMMARY of the false FACTS and PRINCIPLES
advanced by the Catholic-Historian.

By GEORGE REYNOLDS, L. L. D.
Archdeacon of LINCOLN.

L O N D O N:

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M D C C X L I I I.

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TO THE
RIGHT HONOURABLE
THE
Lord *CARTERET*.

My LORD,



Should be suspected of aiming at unfair Advantages for this Essay, if my Address to your *Lordship* was made with the least View of soliciting your Protection: From Evidence, and not from Authority, controversial Subjects are to receive their Support, and the Authority of your *Lordship's* Name, thro' the Literary World, would add too much

DEDICATION.

Weight to this Side of the Question.

I therefore lay this Essay before your *Lordship*, not as the Thoughts of one upon whom your *Lordship* has condescended to bestow many Marks of Esteem, but as the Resolution of an historical Problem only: Which your *Lordship*, from your habitual Turn to Speculation as well as Business, would not be displeased to consider, without any Reference to the Hand from whence it comes, or to the Proportion it bears to any political Standard which may chance to be in Use.

As your own Philosophical and Literary Researches have been universal, nor even your Politics confined to the Forms of Business, or mere Mechanism of Government, but extended thro' all the Recesses of human Nature, and the Obscurity of Antiquity, to know Man as he is in himself, and under every improved Covering that learned Greece or Rome could give him;

so

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so it is not to be doubted, but your Gratitude to Letters, to which you owe so much, will indulge to every decent Prolusion of the Pen such a Degree of Freedom, as may give new Life and Incouragement to the Inquisitive.

When Men, who have had no Taste for Letters, have at any Time brought themselves to the Head of Affairs, by long Bustle in Business and Faction, it is no Wonder they should never once cast a favourable Eye on those Arts, which had no Share in their Advancement: But such kind of Administrations generally avenge themselves, and others, who neglected the smallest Incouragement to true Literature, so necessary to make a free People happy; have been reduc'd to bestow exorbitant Rewards on the vilest Pretenders to it, to make an uneasy People submissive.

But when the Exigences of Government call to the Helm a Minister of distinguished Learning and
Abi-

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Abilities, of enlarged Knowledge and extended Views; such an one will naturally cherish and support those Arts, which have made him the Resort of public Trust and Confidence.

Nor will he do this only out of Gratitude, but Policy.

He knows, that the Sciences are as necessary to the Welfare of a State as Trade and Manufacture; that if the latter gain Power and Wealth, yet the former only can instruct a Community how to use them, or prevent the Increase of private Acquisitions from stifling the Energy of public Spirit.

He knows, that Ignorance confounds the Ideas of Liberty and Licentiousness; that Barbarism makes Men restless, turbulent, and disobedient; the Cure of which is the Cultivation of Letters, as they shew Men the Blessings of a free Obedience; and calm and meliorate that over-active Vigour of Mind, that, for Want of its proper Exercise,

cise, the pursuit of Knowledge, hurries them into the Brigues and Cabals of Faction.

Nor can any Instance be given, that Letters were ever hurtful to a Society, till they were themselves first hurt, by an avowed Contempt of them, or the public Support of those, who are their greatest *Opprobrium* and Disgrace.

Then indeed, they have sometimes recoiled on their Despisers, and shewn, that even in their lowest State they were above Contempt; tho' in their highest, they will always want Support.

Upon this Presumption of the most favourable Auspices for Letters, I lay before your *Lordship* my Thoughts (free and unrestrained) about the Nature of our ecclesiastical Government; trusting to your *Lordship's* Character; which is, to pardon every well-meant Error, and to improve every imperfect Truth; whilst the Mechanic in Politics prefers *sheer Complaisance* to Collision of Senti-

DEDICATION.

Sentiments, from whence Light and Information is chiefly to be struck.

My other Motive in presenting this Essay to your *Lordship* is not to be concealed, which is, to assume to myself the Honour of having the greatest Veneration for your Lordship, and of being with the utmost Attachment,

My LORD,

Your Lordship's

Most Faithful

Humble Servant,

GEORGE REYNOLDS.

THE
PREFACE

THO' the Forms of Address demand a Prefatory Apology from the Writer, for presuming to obtrude his Sentiments upon the Public; yet since the Zeal of Popery hath lately revived many exploded Misrepresentations against the Reformation; since Protestant Dissenters give Weight to the Calumnies of Rome, by persisting in Sentiments adversary to the established Church; since those who are not suspected to want Inclination for Establishments, have, ever since the Revolution, disagreed amongst themselves about the Methods they ought to take, to give Peace, Stability, and Perfection to the Protestant Cause; an Excuse for this Essay, to vindicate the Rights of Religion and Liberty, might be received rather as an Impeachment of the Integrity of the Protestant Reader, than a decent Compliment to his Judgment. The Author therefore hopes, that the Seasonableness

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sonableness of this Work, will recommend it to the Candor of the Public.

Writers of more Weight, who, like other great Bodies move slow, may in Time give a more finished Defence of our Ecclesiastical Constitution; but a defective Essay may perhaps be so fortunate as to abate the present Impressions to the Disadvantage of the establish'd Church, arising from the following Incident, namely, from the Aspersions cast upon the Reformation, in a Book lately published, under the Title of, "The Church History of England, from the Year 1500 to the Year 1688, chiefly with regard to Catholicks; being a compleat Account of the Divorce, Supremacy, Dissolution of Monasteries, and first Attempts for a Reformation under King Henry VIII. the unsettled State of the Reformation under Edward VI. the Interruption it met with from Queen Mary, with the last Hand put to it by Queen Elizabeth."

V. i. p.
94, 100,
85.

The Writer of this History is pleased to assert the following Principles and Facts.
"That the national Clergy of England,
"under the Inspection of an universal Pa-
"stor, always looked upon themselves to
"enjoy

“ enjoy a Power of acting independently of
 “ the civil Magistrate, in all Matters purely
 “ spiritual, *viz.* Consecrations, Admini-
 “ stration of the Sacraments, censuring er-
 “ roneous Opinions, pronouncing upon Mat-
 “ ters of Faith, and granting Dispensations
 “ for Marriage; and, that a spiritual Head- V.2. p.4.
 “ ship or Independence, is the Doctrine of
 “ some of the Episcopal Party and Presby-
 “ terians, especially those of the Kirk of
 “ Scotland. That neither the Archbishop, V.1 p.75,
 “ nor any other Bishop, was qualified to ⁸⁵
 “ exercise his Jurisdiction without the Pope’s
 “ Approbation and Allowance. That there p.70.
 “ hath been a constant Correspondence be-
 “ tween the See of *Rome* and Church of
 “ *England*. That Pope *Gregory* bestowed p.11.
 “ a very extensive Jurisdiction on St. *Au-*
 “ *gustin*; conferring on him, besides the
 “ Dignity of the Archiepiscopal See [of
 “ *Canterbury*] the Primacy both over the
 “ *British* and *Saxon* Churches; whereas,
 “ the *Britons*, before this Regulation, were
 “ subject to a Primate of their own. That the p.12.
 “ *British* Christians applied themselves conti-
 “ nually to the See of *Canterbury* for Direc-
 “ tions. That in the 9th and 10th Century, p.26, 28.
 “ there came out of *Wales* some to be or-
 “ dained Bishops, by Archbishop *Plegmund*,
 B 2 “ and

"and *Dunstan*; which is a Proof of their
 "Submission to the Metropolitcal See of
 "Canterbury: and that the Bishops of
 V. 1. p. 17, 34, 38. "Litchfield, St. Davids, and the Arch-
 "bishop of York endeavouring to withdraw
 "their Subjection, had been obliged to de-
 "sist. That after an Application of near
 "700 Years Continuance to the See of *Rome*,
 "Craumer informed King *Henry VIII.*
 "that he was vested with a judicial Autho-
 "rity in spiritual Matters, in Right of his
 "Crown and Office, tho' the *Englifo* Histo-
 "ry does not afford one single Precedent, or
 p. 94, 95. "even an Attempt this Way. That the
 "new Title which the King thereupon assu-
 "med, of supreme Head of the Church,
 "was a double Attack both against the See
 "of *Rome*, and the Clergy at Home; as it
 "secularised the Clergy, and made them de-
 "pendent on the civil Magistrate in all Parts.
 V. 2. p. 10. "of their Character. That whatever Con-
 "struction Divines may put upon the Act
 "for constituting the King Head of the
 "Church, it is certain, that in Practice,
 "the Clergy are not allowed any indepen-
 "dent Jurisdiction or Power; but that Re-
 "ligion was brought upon the same Foot
 "with Trade and Manufacture: So that
 "tho' the See of *Rome* is a Loser, yet the
 "Englifo

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v.

“ *English* Clergy have got nothing but a
 “ Lay-Master instead of one of their own
 “ Character.

“ That Archiepiscopal, Episcopal, and V. i. p.
 “ Capitular Courts were swallowed up by 345.
 “ Commissions from the Crown granted to
 “ Lay-Men. That the Church being swal- p. 355, 6.
 “ lowed up in the State, and the Canon
 “ Law rendred insignificant, by their with-
 “ drawing from *Rome*; it was requisite that
 “ some Sort of Ecclesiastical Laws should be
 “ established that would answer the Purpose
 “ of the Reformation: And that a Scheme
 “ of this Kind was laid by *Henry VIII.*
 “ and finished in the Reign of *Edward VI.*
 “ but the young King dying before it was
 “ confirmed, the Reformers are at a Loss at
 “ this Day for some such Provision; as it ap-
 “ pears by the awkward and blundering
 “ Proceedings of their spiritual Courts, where
 “ they want standing Laws for their Directi-
 “ on. That the Church hath not yet given Ib. p. 354.
 “ Content in the Matter of Ceremonies, and
 “ Dissenters still quarrel with the Discipline.
 “ That in the Reign of *Edward VI.* the
 “ Convocation had no Power; the Altera-
 “ tions then made being managed by pick’d
 B 3 “ Men,

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"Men, whilst the Convocation was silenced.

V. i. p. 358, 9. "That in Queen *Elizabeth's* Reign, the Bishops and Convocation, were refused to

V. ii. p. 31. "exercise the Power committed to them by Christ. That a Remedy was found wanting to unite Protestants amongst themselves; and Articles of Religion were drawn up, and a Discipline considered of; the puritanical Party insisting upon an Abolition of several Practices and Ceremonies,

p. 13. "That afterwards the Reformation broke into Parties, and into separate Congregations, which the Wisdom of the Nation could never put a Stop to.

p. 32. "That a Volume of sanguinary Laws was published against those who refused to subscribe to the new Religion; and that the Puritans attacked the Episcopal Government, and ridiculed the Character in abusive and virulent Pamphlets.

p. 327. "That the Puritans forming Hopes of Favour in King *James*, from the Impressions

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“ sions of his Education, presented an Ad-
 “ dress to him, called, *The Millenary Peti-*
 “ *tion*, but obtained nothing besides a Con-
 “ ference at *Hampton-Court*.

“ That Controversies about Religion ari- V. 2. p.
 “ sing between *Arminius* and *Gomarus*, 329.
 “ Professors in *Holland*, the said King inte-
 “ rested himself therein; and a Synod be- P. 330.
 “ ing called at *Dort*, the *Arminians* were
 “ excluded as Schismatics, and alledged in
 “ vain their Right to be heard.” *From*
 “ whence a Comparison may be made between
 “ the Council of *Trent* and *Dort*. “ In the
 “ Catholic Church there is no room to ob-
 “ ject against the Method of holding Coun-
 “ cils, where all Things are carried on with
 “ Freedom, and none excluded, &c. which
 “ is far different from what is observed among
 “ the reformed Churches.

“ That the great Change of Religion both V. 1. p.
 “ in *Germany* and *England*, was an acciden- 119.
 “ tal Undertaking; for in the former it be-
 “ gan with *Luther's* private Quarrel with
 “ the Dominican Friars; and in the latter,
 “ with *Henry* the VIII's Resentment against
 “ the Pope, his avocating to *Rome* the Cause
 “ of Divorce from Queen *Catherine*, with p. 72, 4-

“ whom he had lived seventeen Years with-
 “ out any Scruples concerning the Validity
 “ of their Marriage.

V. 1. p.
 73. 4.

“ That a personal Dislike of the Queen,
 “ and a furious Passion for *Anne Bullen*,
 “ were the Master-Springs of all the Moti-
 “ ons in the Process of Divorce; and that
 “ the *French, Spaniards, Germans, and*
 “ *Italians*, one Way or other, found them-
 “ selves concerned in the Controversy, as
 “ well as the *English*.

p. 75. 7. 8.

“ That the Avocation of the Cause to
 “ *Rome*, which displeased the King, was a
 “ Matter of common Equity. That his Ho-
 “ liness ought to have hearkened to the
 “ Queen's Appeal; and that subordinate
 “ Courts of Judicature, ought not to pre-
 “ clude the Right of Appeal to a superior
 “ Tribunal.

p. 81. 2.

“ That *Henry VIII.* when he cou'd
 “ not compel the Pope into a Compliance,
 “ by several Statutes in Prejudice of the
 “ Holy See, and several Acts of Distress up-
 “ on the national Clergy, particularly the
 “ Execution of the dormant Statutes of
 “ Provisors, nor was able to restrain his Pas-
 “ sion,

“ sion for *Anne Bullen*, precipitately mar- V. 1. p.
 “ ried her; and then to make amends for 83.
 “ this Blunder, and unparallel’d Instance of
 “ Rashness, was advised to have the Matter
 “ determined by his own Authority.

“ And thus the Supremacy and Headship
 “ over the Church was contrived.

“ And in order to maintain it, it was not P. 88.
 “ thought sufficient to humble the Clergy,
 “ as hath been already related, unless the
 “ Monks, who were a rich and powerful
 “ Body, were disabled from giving Opposi-
 “ tion.

“ This Consideration put him upon the P. 97. 8.
 “ Project of seizing the Monastic Lands,
 “ as he had before laid Hands on An-
 “ nats.

“ But to give this avaricious Design an p. 100, 1.
 “ Air of Justice, it was agreed in Council,
 “ that there should be a general Visitation of
 “ all, under the Direction and Commission of
 “ *Cromwell*, the King’s Vicar General:
 “ And Care was taken to raise an Expecta- p. 105,
 “ tion, that the Lands of the Houses to be 108.
 “ dissolved for Delinquencies, or upon Sur-
 “ renders

renders, should be converted to spiritual
 Uses, and transferred to Schools, Hospi-
 tals, and Colleges.

V. 1. p.
 101, 108,
 110.

Yet, when the Dissolution took Effect,
 under Pretence either that the Number of
 these Houses was too great, of Immorali-
 ty in some, Poverty in others, Desertion,
 Forfeiture, or voluntary Surrender, the
 Parliament was prevailed on to settle these
 Estates on the King, his Heirs and Succes-
 sors, to do therewith according to his and their
 Will and Pleasure; but chiefly in Consid-
 eration, that, by this Accession, not only the
 Strength of the Nation, which mainly
 consists in the Revenues of the Crown,
 would receive a Reinforcement; but the
 Ease of the Subject be secured, who should
 never hereafter be burthened with Subsi-
 dies, and other common Aids.

Thus the antient Nobility were dispos-
 sessed of their Patronage, the Wills of the
 dead, and the Right of the living subvert-
 ed; the Provisions made for the Education
 of Youth, the Support of the Poor, Acts
 of Hospitality, the Maintenance of young-
 er Children, the quiet Retreat of old Age,
 the Protection of the unfortunate, and the
 undisturbed

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“undisturbed Tranquility of a contempla-
 “tive Life, were all defeated at one sacrile-
 “gious Blow.

“That a vast Collection of Records, ^{V. 1. p. 348.}
 “Books, Libraries, and literary Curiosities,
 “also of Plate, Jewels, and Ornaments for
 “Churches, were purloined by the rapaci-
 “ous Reformer.”

“That many Collegiate Churches, Chan- ^{P. 347. 8.}
 “tries, Gilds, and free Chapels, which had
 “escaped the Rage of *Henry VIII.* fell
 “into the more unmerciful Hands of *Ed-*
 “ward the VI’s Courtiers. That the Bi-
 “shops, who were not chargeable with Su-
 “perstition, were obliged to submit to have
 “the Estates and Manors of their Sees rent
 “from them. That these Measures became ^{P. 352.}
 “so unpopular, that an Army of *Germans*
 “and *Lutherans* was brought over, to over-
 “awe the *Englisk* upon this critical Juncture
 “of establishing a Reformation.

“That the Servility of the Clergy, and ^{V. 2. p. 7.}
 “their sudden Transition from one Religion
 “to another, was an Evidence of the great
 “Corruption of Morals; for no sooner had
 “Queen *Mary* ascended the Throne, than
 “most

“most of them veered about again, and complied with the Catholic Doctrine: So that they were come into a Way of changing, not out of Principle, but for Bread.

V. 2. p. 9.

“That Queen *Elizabeth* gave the finishing Stroke by pillaging Bishopricks.

“That tho’ the Rights of the Church were confirmed by *Magna Charta*, and she had sworn to maintain them, yet she extorted from the Bishops the Manors and Estates of their Sees, upon a very disadvantageous Exchange for impropriate Tythes. *Henry VIII.* pretended, that Religious Houses had freely given up their Possessions to him without Force, or Coaction of any kind; but in this Case, there was no Colour of a voluntary Surrender. On the contrary, the Bishops declared their Dislike of Exchange with the Queen, and charged the Alienation with no less than Sacrilege.”

This is a Summary of the Facts and Principles asserted in this History; and whoever is pleased to advert to the Author of the Rights of the Church, will find, that that pretended Friend to Freedom of Thinking,
bath

hath borrowed from the invenomed Pens of the Court of Rome, his Notions of the Disability brought upon the English Church by the 25th of Henry VIII, and basely perverted their Imputations upon it, of a Want of Christian Liberty, into an Evidence of a Right in the Laity, to the free Exercise of their private Judgment; as if nothing could emancipate Truth and Reason, but an absolute Disfranchisement of the Ministers of the Gospel, and an Exemption of all debatable Questions, from authoritative Decisions.

Whereas the Parliament and Synod are legal Opportunities, and Calls, for the Exercise of Mens private Judgment upon civil and religious Rights: The Press, however useful with the Protection of Law, is found insignificant under arbitrary Rule; and Slavery, and implicit Obedience must be the necessary Consequence of an undue Restraint upon Synodical and parliamentary Disquisitions.

The Writer therefore of this Essay, to vindicate the Honour as well as Priviledges of our ancient Constitution, ought in decency to expect such a coincidence of Sentiments with his Design, as will remove all Occasion

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sion for his compliance with the Custom of a prefatory Excuse.

But there is one Caution, to which the Reader is requested to give a favourable Attention, viz. not to take Offence at necessary Animadversions upon some domestick Disorders, which are still subsisting amongst us. The Press is, for the most part, an exceptionable Method of communicating Men's Thoughts to the World upon legal Administrations; yet when the Reformation is reproached by Papists from the Press, with an Enumeration of the Dissentions, Factions, Schisms, and lasting Animosities amongst Protestants; with Sacrilege, Secularity, Lay-Craft, or want of Spiritual Authority and Discipline, as if these Evils were the natural Fruits of our Detachment from Rome; all our Obligations to Truth demand a detection of the Obliquities, which were the real Cause of Separation: Although some of those Obliquities, through the Infelicity of the Times, the Peevishness of Non-Conformists, or the Indiscretion of some Conformists, may remain unreformed.

For what can justify a change in Religion, but a Demonstration of the Emendanda in the former Profession, and of an obstinate refusal to correct them?

Defects

Defects in the Externals of Religion, are in themselves an Imputation upon those only, who first introduced them, or have since obstructed their Amendment. Whereas to conceal or cover, to palliate or patronize Disorders in the Constitution, much more to obstruct any Steps towards rectifying what is amiss, would be inconsistent with the Purity of the Doctrines of this Church.

But no Inconvenience attends the Detection; the discredit of Irregularity is shared between its Authors, and the injudicious Obstructors of its Redress; whilst at the same Time it commends the Piety, Virtue, and Pastoral Care of the Prelates of the Church, whose Vigilance and Discretion have for many Years supplied the Desiderata in the Ecclesiastical Constitution.

P A G E 83. Line 14. read, *intervened*, instead of *interrupted*. Page 160. Line 35. read, *Introduction*, instead of *Occasion*; and Line 36. read, *between*, instead of *to*.

AN HISTORICAL
ESSAY
UPON THE
GOVERNMENT
OF THE
Church of ENGLAND.

CHAP. I.

AMONGST Relators of the Transactions of former Ages, it hath been a common Mistake, to form their Estimates of Things, not from the Rate set upon them in the distant Period, which is the Subject of their Disquisitions; but from the Value they chance to bear in their own later Times: And as the Weight and Influence of Things, especially of such as depend upon Opinion, are always variable, hence it comes to pass, that Effects are frequently imputed to Causes that had little or no Part in their Production, and the true Spring, having lost its pristine Force and Reputation, remains unheeded and buried in Obscurity.

B

Some

Some Temptation to an Error of this Kind, fell in the Way of Protestant Writers, treating about the Cause of the separation of this Church from *Rome*.

For the external Polity of the Church, which of late Years hath confined itself within narrow Bounds, had some Centuries past a larger Circle, and considerable Influence in all national Concerns; insomuch as the Welfare of the State was then much affected with the right or wrong Use of Ecclesiastical Jurisdiction, no less than the Advancement of Religion and Learning. But since the Declension of this Power, very few Incidents have arisen to draw Men's Attention upon the Government of the Church, which the World seems less interested in than heretofore, and to look on rather as the Province of a particular Profession, than as a Matter of public Concernment.

And it is probable, that modern Writers of the History of the Reformation, observing, how unavailable in their Time the State of Ecclesiastical Jurisdiction was to produce any important Event, might from thence be induced to lay less Strefs upon the Distaste, which the forensic Administration of Ecclesiastical Jurisdiction, from the twelfth to the beginning of the sixteenth Century had excited in the Nation, and which at length occasioned the Detachment of this Church from *Rome*, as the only way to get rid of the long complained-of Grievances.

Dissatisfactions about Government, as well in Church as State, are of a very long standing; no Age was free from every constitutional Obliquity, or from all Animadversion upon it: Nay, the whole Christian System, after its first Lustre in the Western Empire had been clouded by the Influx of the *Goths* and *Vandals*, was republished

republished with a great Allay, in the original Purity of its Doctrine and Discipline. But an Inquiry into the special Causes of the Ecclesiastical Revolutions in the sixteenth Century, should pursue such Corruptions solely, as took their Rise from the Laws and Customs imposed upon national Churches, when they gave up their primitive Independence to *Rome*, and were the distinguishing Consequences of their Subjection to the pontifical Chair.

Upon this Consideration, the Justice of some Exceptions which may be taken against penal Laws, in Matters of Faith and Opinion, will lie out of the Road of this Inquiry; because penal Laws, for the Maintenance of Purity in Religion against heretical Mixtures, were the Invention of Princes, and not of Popes; being in Use many Ages before the Elevation of papal Power, and continuing afterwards with a degree of Severity, that chequered the Candour of the Protestant Profession.

Cod. Theod.
& Vincent. Le-
rin: adversus
Hæreses.
p. 300.

*Erasmus,
Brandt, Life of
Cranmer, and
Fox's Acts and
Monuments.*

Neither is the Ignorance and Laziness, the Luxury and Irregularities of Monks to be appropriated to the Discipline of the Holy See; for in the earliest Times, whilst it was to the Advantage of that See to be brought into Comparison with the State of other Churches, many Monastic Orders in divers Parts of Christendom had fallen into Disrepute; and moreover, those Institutions found a Place in the *Greek* and *African* Churches, where papal Influence did not prevail.

Hospinian de
Origine Mo-
nac. and *Bing-
ham's Antiq.*

Much less will an Enumeration of the Errors in respect of Faith and Worship, of which the Church of *Rome* stands now convicted, point out the first Causes of a Separation from it; since the Resolution to withdraw from Communion with *Rome*, was avowed much earlier than the

Discovery of those Errors received any Countenance in the separating Churches.

But the Uneasiness which occasioned this Separation, proceeded from the Interferings between a new Method of Ecclesiastical Administration, ushered in about the twelfth Century, by decretal Epistles from *Rome*, and the ancient Plan of Government long before established in independent national Churches, conformable to the Model of the civil Constitution, and the municipal Usages adapted to the State of different Provinces.

Grotius de Imperio summ. Potest. c. 11. n. 8.

In early Times, it had been the Maxim of the Fathers to accommodate the Polity of the Church as nearly as could be to the settled State of Things; and the first Preachers of the Gospel were observed to carry on their Mission with less interruption in *Palestina*, as the imperial Officers saw no Change in the external Government of the Jewish Synagogues, upon their Conversion into Christian Churches.

Cave's Hist. of the primitive Church, and Dupin de Antiq. Eccles. Disciplina. Concil. Milev. Ephesin. Chalced. & Cod. Novell. 81. 123. & Groti. ibid. c. 7. De Marca.

In like manner, when *Constantine* gave Peace to Christianity, the Fathers expressed their Gratitude by adapting the Disposition of the Church, as far as the Nature of the Authority conferred upon it from Scripture would admit, to the Plan of the Empire, the Division of the Provinces, and Condition of the Metropolitan Cities; inso-much as their Decrees in Matters of Faith and Doctrine, no less than their judiciary Forms, and Order of proceeding in Councils, as well as in Episcopal Consistories, were subjected to imperial Edicts; not that the Judgment of Princes is supposed to affect the Faith of Christ, in respect to its internal Truth or Authority; but to be interposed on Account of the Influence Opinion is found to have, upon Life and external Demeanour.

Opinions,

Opinions, which ought always to be regulated by Reason and Argument, often owe their Prevalence to Passion and Prejudice, to Suffrage and Numbers; and speculative Points have sometimes been maintained by twenty thousand Controversialists in Steel. The Magistrate therefore, whose Duty it is to provide for the Peace of the State, may determine, what Doctrine shall be allowed in every Community, or receive Protection and Encouragement from his Power.

And upon this Principle *Constantine, Theodosius, Valentinian, &c.* convened or discontinued Councils; presided or appointed Commissioners to preside therein, and confirmed or annulled conciliary Resolutions upon Matters of Faith or Discipline; which furnished the Fathers with frequent Opportunities of shewing first, by their Compliance with these Orders, the Rights of Christian Princes to intervene in Determinations about Religion; and secondly, by their own judiciary Decisions and canonical Decrees, the Consistency of a conciliary Power in the Clergy, with the Supremacy of the Crown.

The Affairs of the Church had been ordered in Synod, some Centuries before the Empire became Christian; and were left in that Course (when Emperors became Protectors of Religion) to be directed and settled according to the ancient Practice of Synods, subject only to imperial Approbation.

And this Coincidence between Church and State became the more universal under the **Gothic* Princes, who as Successors of the Emperors in the Western Provinces of the Empire, inherited their Supremacy.

For the Constitution of the Western Empire, when Christianity got Footing therein, amongst

* *Acta Concil. Tolet. 111.*
An. 589.
Aët. Concil. Francofort.
An. 794.
Aët. Concil. Tribur. An.
895.
Capitular. Car. Mag.

the conquering *Goths*, was formed upon the Principles of the Feudal Law, which apportioned a Share in Legislature, and a Place on the Bench of Justice, to the several Proprietors of Land and Offices. Hence the whole Magistracy was cantoned out into many separate Jurisdictions or Apartments of Government; and, in Consequence of this Allotment, the Prelates of the Church, as chief Magistrates or Administrators of Religion, were not only called to national Councils, but associated in the ninth Century, (if not before) with the secular Officers in each District, for the distribution of Justice, and the joint Application of Civil and Ecclesiastical Jurisdiction to the reciprocal Interests of Church and State.

Capitular.
An. 850.
De Marc.
p. 357, 8, 9.

This Accession of secular Power superadded to their Authority, as Preachers of the Gospel and Inspectors of Mens Lives, (for penitentiary Discipline was yet in use,) gave the Clergy a considerable Influence; and strengthened the Pretence of the *Gothic* Princes and States to nominate, as was their Custom, fit Persons to Ecclesiastical Offices, that were of so significant a Weight in the Scale of Government.

Grotii Hist.
Belgic. & de
Imp. Sum. Po-
test. c. 10.

Thus the several Movements in this political Machine, all centred in one common Spring, and by this Communication of Power through the several Estates and Orders of the Realm, under the ties of Feodality, or mutual Faith and Agreement, together with a Participation of the same legislative and judicial Rights, and the distribution of Government into several Districts and Franchises; the exorbitant growth of Magistracy was prevented, and an *Æquilibrium* constituted, which secured the Liberty and Tranquility of this free People for many Ages; serving as a Barrier of
their

their Rights against the Ambition and Avarice, Caprice and Insolence of Civil and Ecclesiastical Invaders : But no sooner was this Poise in danger of being altered, than great Jealousy arose about the Bounds of Jurisdiction, and the separated Interests of Church and State ; so that, though the present Impotence of Diocesan Prelacy, and the just deference paid by the Church to the Royal Supremacy, hath removed every Image out of View, that may raise a just Idea of the Inconveniences attending Interferings between Civil and Ecclesiastical Jurisdiction, yet it is easy to apprehend that the Affectation in the Church of *Rome* of universal Dominion, by reducing other independent national Churches into a Dependence on the pontifical Chair, could not take Effect without disconcerting the Union between the Civil and Ecclesiastical Administration ; altering the ancient Poise and Balance of Government ; impairing the Securities of publick Liberty ; removing the Standard of private Rights ; annihilating, in a great Measure, the scriptural Authority of Episcopacy ; in short, subverting all settled Usages and Customs ; and consequently, sowing the Seeds of universal Discord and Contention.

In Fact, the Contradiction in the *Pope's* Project for universal Monarchy, to a Government founded upon Compacts, limited by special Stipulations, and parcelled out into distinct Societies, was soon perceived and complained of ; but the States and Churches aggrieved, were unable to shape out Relief for themselves, so long as they held on their Union with the See of *Rome*, where Justice was venal, and every Corruption could purchase Shelter and Support upon Appeal ; where the most useful Regulations were weighed, not by their Congruity with the

Laws of the Realm they belonged to, but according to the Pleasure or Dictate of his Holiness's Tribunal.

It was There held decent, that local Usages and national Constitutions, should be controlled by unerring Wisdom; and hence a necessity was brought upon the Episcopal Administration in the most distant Provinces, to reduce their Rules of Discipline and Practice to the Standard of the pontifical Consistory; though a Submission to novel and obtruded Maxims of Government, must have been extremely distasteful to the Passion, which Men of Spirit naturally entertain for the Laws of their Country.

Brown's Fascic. Rerum expetend. v. 2.

And it was not long before many Expressions of Resentment against this Imposition appeared; insomuch as *Robert Grossthead*, Bishop of *Lincoln*, not only delivered it as his Sentiment, in the Council of *Lyons*, about the Year 1250, that the many Inconveniences arising from the disorderly State of Religion, would shortly demand the Intervention of the Civil Magistrate, if the *Pope* should procrastinate the desired Reformation, but appealed to a general Council from a Censure inflicted upon him by the *Pope*, for disobeying an illegal Bull.

M. Paris.

But the *Germanic* Body was most sensible of the Indignity put upon the Empire, by introducing the Decretals of the *Pope*, as sufficient of themselves to regulate the Doctrine and Discipline of the Church, without the Sanction of a Council, to be convened by the Emperor, according to ancient Usage; and the Controversy between the *Guelphs* and *Gibelins* turned in a great Measure upon this new pontifical Law, as it paid less Regard to the Customs of national Churches, than in Councils had usually been done.

Hist. of Naples v. 2.

However,

However, this Controversy being of too great Moment to be decided by private Persons, was taken in Hand by several Princes, when they found themselves interested in it; particularly by *Lewis of Bavaria*, who appealed about 1338 to a free and general Council, against the contumelious Attempts of Pope *John XXII.* to the Prejudice of the "Laws and Liberties of all the Princes and Subjects of *Germany.*" Platin.

The same Step had been taken in the former Century by the King of *France*, *Philip the Fair*; he called a national Council, and therein laying open the various Incroachments of Pope *Boniface* upon the Rights of the Kingdom, appealed to the Catholic Church and a future Council. Platin.

These Transactions may properly be considered as Preludes to the Reformation, because an Appeal which suspends the Authority of a subordinate Jurisdiction, till the Grievance complained of is redressed, could have no Effect upon the See of *Rome*, which claimed a Right of Judicature paramount to all Review or Reversal, but by an actual Separation from it.

Upon the same Ground, many Writers of those Times, such as *Marsilius Patavinus*, *Dante*, *Michael Cezena*, and *Pecham*, encouraged perhaps by the Example of these Princes, began to maintain more explicitly, that all coercive Jurisdiction was derived from the Concessions of the Civil Magistrate, and therefore Christians were not bound by the Decretals of the Pope, in Derogation of their municipal Laws; by which Explanations, the Injustice of the Pope's Usurpations was set in so clear a View, that the Followers of the Court of *Rome* were brought to acknowledge (what they had been long averse

to) the Necessity of calling a general Council to regulate the Government of the Church.

L'Enfant's
History of the
Council of
Constance.

Accordingly a Council met at *Pisa* in 1408, and entered with Spirit upon the Work proper for it; soon after, viz. in 1414, another was assembled at *Constance*, to finish what the other had begun: But when Representations of the burthenfome Administration of the Church, were exhibited from all Parts of Europe, Pope *Martin* eluded the good Disposition of the Council to provide Remedies adequate to the Disease, by assuring the separate Nations of which the Council was composed, that they should receive from him Satisfaction and Justice as to the particular Grievances of their national Churches, and need not fatigue the Council with importunate Applications.

This was the Foundation of the several delusive Concordates between the Pope and the *English, French, and German* Nations; and the Hopes which the impatient World had conceived of universal Redress, were postponed to a distant Council, to be assembled at the End of the fifth Year.

Coriol. sum-
ma Concil.

When that Term was come, the Pope being informed that the Air of *Pavia*, where the Fathers were to meet, was unhealthful, translated the Council from thence to *Sens*: And no sooner were the Prelates, in Pursuance of this Prorogation, gathered together from all Provinces of the Western Church at *Sens*, than his Holiness was pleased to anticipate their Consultations by a precipitate Dissolution. But he became soon convinced, that this third Disappointment would not be born; therefore in 1431 he called a general Council at *Basil*, and to remove all Suspicion of unfair Practice upon it, appointed Cardinal *Julian*, who had been very active at the

the Council at *Constance*, to preside, as his Legate, at *Basil*.

Martin died before the Council could meet; and *Eugenius* the fourth, his Successor, influenced by an Aversion to Councils inseparable from the Chair, writ to Cardinal *Julian* to pro-

Coriol. sum-
ma Concil.

rogate the appointed Sessions. But *Julian*, instead of complying, rescrib'd,

“ That he humbly intreated his Holiness to consider that most of the Grievances, for Redress of which the Council was convened, were charged upon the Corruption of the Court of *Rome*.

Brown's Falsic. Rerum expetend. v. 1.

“ That, since by Proclamation made in all Parts of *Christendom*, and in all Universities, the most eminent Doctors and Masters were invited to give their Assistance to the Council, great Confusion and Ignominy would befall the whole Catholic Church, if this Council should break up, without doing any Thing to purpose; that it would render the Clergy the most wretched of all Men, since the World would not be perswaded, but that they were become incorrigible, and determined to persist in their Irregularities, if one Council after another was called in vain: The disappointment of Mankind in former Councils, had rais'd a stronger Expectation of some Benefit from this; but should they be again deluded, it will be said, that we deride both God and Man.

“ If we defeat the Hopes of this Council, out of Apprehension, that a Reformation may be carried on too violently there, I fear, we shall endanger our eternal, as well as secular Interests, as it happened to the *Jews*, who rejected the Preaching of *Christ*, lest

“ the

the Romans should come and destroy their Place and Nation.

“ And if your Holiness should lay any Stress upon the Approach of the War ; I answer, that it would become us, rather to attend to the Duties of our Function, and the Maintenance of Religion, than to the Defence of Castles and walled Cities, or even the Preservation of the whole Patrimony of *St. Peter*.

“ Nay, should it be urged, that the Prorogation of the Council will be beneficial, and attended with Advantages, which cannot be hoped for here, this will not be credited ; for they’ll say, we shall be again deluded upon this Adjournment, as we were in the Council at *Sens*. A President is sent, and Bulls have been issued for the Meeting of the Council here, and now an Intrigue is set on Foot to change the Place, and postpone the Term appointed for the Session, &c.”

The Weight of these Observations prevailed on the Pope, to suffer the Council to meet at *Basil*. But when the Fathers began to inquire into the Source of all Disorders, the Court of *Rome* ; the Pope immediately avocated his President, together with the suburbicane Bishops, and issued a Bull for Dissolution of the Council ; notwithstanding which, the Cardinal of *Arles* at the Head of many Bishops, continued to hold on the Council at *Basil*, and came to many useful Regulations which were received in the *Gallican* Church, and established by the pragmatic Sanction of *Bourges*, tho’ Pope *Julius II.* would not allow and confirm them, but formally repealed them in the Council at the *Lateran*, in 1512.

This Repeal of the Regulations of *Basil*, at the end of so many Prorogations, Translations, Adjourn-

Adjournments and Dissolutions of Councils for two Centuries, under Colour that they were unreasonable on Account of War, or Plague, or Famine, or other false Pretences, was a Demonstration to the World, that the Court of *Rome*, from whence all Disorder in Discipline was communicated to the dependent Churches through Christendom, would not submit to be reformed; therefore in 1517 a large Step was taken in the *Gallican* Church, towards a Separation from *Rome*, by a memorable Appeal, (for an Appeal from the dernier Refort, is a kind of Disclaiming of its Authority) by the Appeal of the University of *Paris*, against the Pope's Repeal of the several Regulations made at *Basil*, in the Administration of the Church.

Brown's Fascic.

Neither were Things at this Season more easy in *Germany*; a List was there prepared about the Year 1509, of ten Grievances in the Government of the Church, under which the *German* Nation groaned; and to prevail upon the Emperor *Maximilian*, to give the greater Attention to this Remonstrance, one of his Counsellors of State delivered a Memorial to him, setting out the several Advantages of a Reformation in the Ecclesiastical Administration. Therein it was asserted, that a Reformation would prevent “the numerous Litigations and Controversies, the many Frauds and Deceptions in Courts, through the Intricacy of Prerogatives and the infinite Snares of forensic Instruments, by which all *Germany* was impoverished; the Scholar interrupted in the pursuit of his Studies, and universal Hatred and Dissatisfaction raised in the People against the Clergy.”

Sleidan. Com.

But nothing effectually being done, the Princes of *Germany* assembled in the Diet of *Nuremberg*
in

in 1523, resumed the Consideration of these Complaints, and digesting them into an hundred Articles, printed and presented them to the Pope's Legate, to be transmitted to his Holiness, with this Request, "That his Holiness
 " would, with all speed, proceed to have these
 " Matters rectified, otherwise they themselves
 " must needs take some Course to shake off the
 " Burthen and recover their ancient Liberties."

Perhaps a Recital of such of the Articles, as had any Resemblance to the State of Things here, may not be thought superfluous. They are as follows.

T A B U L A centum Gravaminum Germanicæ Nationis.

1. *Primum versatur circa Constitutiones humanas, quæ dum Dispensationibus pecuniariis Romæ redimuntur, omnem Iniquitatem procreant, et nos Ære nostro privant.*
2. *De Nuptiis pro Pecuniâ celebrandis Tempore interdicto.*
3. *De nundinationibus, quæ perperam exercentur in Indulgentiis, &c.*
5. *De Casibus utcumque reservatis, quorum, sine Pecunia, nulla haberi poterit Absolutio.*
9. *Quam inique Causæ prophanæ ad Romanum Tribunal trabuntur.*
10. *Qua Fraude, quove Dolo, præacta agitur Versutia.*
11. *De Abusibus et Excommunicationibus iniquis.*
12. *Quam inique Monasteria quædam ab Episcoporum Jurisdictione eximuntur.*
14. *De temeraria Violatione Juris patronatus.*
19. *Quomodo Provisiones Ecclesiasticarum Dignitatum Romam pertrahuntur.*
20. *De Regulis Cancellariæ papalis, & variis illarum Technis, insinistisque Laqueis.*

N. B. A Reference to the Statute of Dispensations, 25 Henry VIII. c. 21. will inform the Inquirer what Resemblance there is between the Chancery of Rome, and the Court of Faculties here.

24. *De Prælaturarum Commendis & Incorporationibus Romanis.*

26. *De novis Fraudibus Rom. Sedis, quibus multifariam veris derogatur Privilegiis.*

N. B. Under this, as well as under the ninth and tenth Articles, is explained the Injury done to Ordinaries by Appeal.

34. *De diverso, prophano, ac intolerabili Onere Excommunicationis.*

36. *De illicitis Interdictis in Causis minimi faciendis.*

56. *Quam inique Laici ad vetitum Ecclesiasticorum trabuntur Tribunal.*

59. *Quomodo laicas quasdam Causas Judices Ecclesiastici remittere nolunt.*

60 & 71. *De variis, illicitis, & inutilibus prophanarum Causarum Expensis.*

N. B. These Articles set out, that Causes often hang in Ecclesiastical Courts three Years or more, to the great Impoverishment of the Subject.

95. *De Malitia Romanorum Legatorum.*

97. *Quanta Injuria sit in Jure patronatus.*

99. *Quomodo Papa, Archiepiscopi, Episcopi, ac reliqui Prælati ex istorum Gravaminum Publicatione in nullo se emendarunt.*

The Legate returned to the Diet in 1524, without any Instruction to comply with any of these

History of the
Council of
Trent, p. 29,
30, 31, 32, 33.

these Demands ; he said, " That there was a
" Tincture of heretical Pravity in this Impeach-
" ment of Ecclesiastical Authority ; and that
" the Publication of these Propositions to the
" World, was the Contrivance of some malig-
" nant Person to asperse the Court of *Rome* ;
" but that he had an absolute Power to consent
" to the real Exigences of Religion, and was
" ready to reform all the Disorders of the infe-
" rior Clergy."

In this Proposal, the Design of the Legate was visible, viz. to divert the Inquiry from the real Offenders, to others who were chargeable with Escapes of a less offensive Nature ; in the Correction of which he might find Opportunities to distinguish the Enemies of pontifical Corruption, and the Promoters of Complaints against the Male-administration ; but the Princes displeased with the Subterfuge, ordered a Recess of the Diet ; first, decreeing, that a free Council should be called by the Pope, with the Consent of the Emperor, as soon as was possible, and that the States of the Empire should assemble themselves at *Spire* in *November*, " to determiné
" what Course should be taken, until the Coun-
" cil was opened."

Sleid. Com.

The Protestant Name and Profession was not yet in being : *Luther* had indeed, six Years before the Convention of this Diet, drawn up Animadversions on certain Letters, published by the Pope's Collectors of the Perquisites of Indulgences, to magnify the Power of their Mission, and sent them to the Archbishop of *Mentz* and the Bishop of *Brandenburg*, with an humble Petition, that they would interpose their Authority, to prevent this Exaction and Imposture upon their People ; but these Prelates taking no Notice of the Application, he writ to Pope *Leo* an Account of the Extravagance of his Collectors.

In the mean time, *Thecelius*, *Eccius*, *Sylvester*, *Prierias*, and other Scholars of Fortune, took in hand a Vindication of the preferring Side of the Question, and *Luther* replied with Spirit to each of their purchased Essays.

But Pope *Leo* recollecting, that an implicit Submission to Authority was the surest Refuge of a bad Administration, instructed his Legate *Cajetan* to impose Silence upon *Luther*, and a perpetual Restraint upon his Pen. With this Order *Luther* declared he was not unwilling to comply, if the Writers on the other Side were likewise made subject to it; he hoped to be indulged either in the Exercise of his own private Sentiments and Pen, or in a judicial Direction on the litigated Points; assuring his Holiness, that he would pay all due Regard to his Decision, and write no more, if he would condescend to examine and determine the Controversy; but, if that was too great a Favour, he prayed to have Access to the Press, as freely as was allowed to his Opponents.

The Reasonableness of this Address (for Reasons have always been offensive to arbitrary Powers) drew upon *Luther* the Censure of Excommunication: And he had the further Mortification * to find his Doctrine disclaimed by the Princes of *Germany*, and even by

of *Luther*, may gratify the Curiosity of the Reader. The Bishop of *Salisbury*'s Words are, "So small a Spark as that Collision made, could never have raised so great a Fire, if the World had not been strongly disposed to it; by the just Prejudices they had conceived against the *Romish* Clergy, whose Ignorance and lewd Lives had laid them open to Contempt and Hatred, that any one that would set himself against them, could not but be kindly looked upon by the People." Hist. of the Ref. V. 1. p. 30. Father *Paul*'s Account differs, "*Germany* suffered but little Inconvenience by the Abuses of the inferior Clergy, but great by the Usurpation of the Bishops and Prelates, and greatest of all by those of the Court of *Rome*." Hist. of the Coun. of *Trent*, p. 34.

* A Comparison between the Bishop of *Salisbury* and Father *Paul*, as to the Cause of the great Turn in *Germany* upon the first preaching

Sleid. Com. *Frederic* *, the Elector of *Saxony*, tho' that Prince, in Compliance with the Laws of Nations and the Offices of Humanity, gave Protection to his Person and Cause, whilst condemn'd unheard, and till he should be admitted to a fair and free Audience.

Such were the Advances made about 1524 in these Kingdoms towards a Separation from *Rome*, thro' a Resentment of the Innovations attempted in the Constitution of the *French* and *German* Churches by Decretals of the Pope, and the Disappointments of Relief from general Councils, where papal Influence was found to prevail: Advances, to which a Change of Opinion in Matters of Doctrine did not in the least contribute!

In the *Netherlands*, where the Use of the *Roman* Ritual was retained to the Year 1566, so violent a Strain was at length given to their Constitution by papal Innovations, as rent it from the *Roman* Center, to which it had long adhered. The ancient Government of this

* Tum vero legitimus cognoscendi Ordo: At illi [meaning the Popes]. postquam divina.

† sui Juris fecerant, nova edere decreta, vetera interpretari:

§ Ulterius Brabantorum Vox libera processit, quorum Urbes, mox & ipse ejus nationis Senatus, haud retigere, irrepentem altius indies inquirendi morem patriciis suis Legibus adversari, quibus Judicia ordinantur, & quae sacerdotalem Notionem certis Finibus includerent. Horum inde Constantiam alii secuti. Grotii Hist. Belgic.

p. 9, 10, 18.

Church was * legal, and carried on under known and stated Rules. But the † Pope by publishing new Decrees, interpreting away the old Laws, and substituting a § new Method of ecclesiastical Correction, so altered the whole Administration of Religion, as gave the *Brabanters*, a People always jealous of their Liberty, a full View of the Inconsistency of this Course with the Laws and Customs of their Country; which had anciently restrained the sacerdotal Regimen within certain fixed and legal Bounds: And their Affection

for

for their municipal Usages lead the Way to a Separation from *Rome*, when they could not reconcile Obedience to the Holy See with their national Establishments.

Upon this Review of the State of the *Western* Empire the following Conclusions present themselves. That the first Christian Emperors exercised a judicial Power in Matters of Faith and Discipline.—That in the principal States, which arose out of the Ruins of the Empire, the Supremacy descended to the succeeding Princes.—That the external Government of the Church under the *Gothic* Princes, as well as *Roman* Emperors, was adapted to the civil OEconomy.—That great Convulsions arose in all Parts of *Europe*, in Consequence of the Pope's Endeavour to establish an ecclesiastical Regimen, discordant to the Settlement and Order of the State.—That the Dissatisfactions arising from thence, produced various Projects for restoring Peace to the Church, which were all eluded by the Influence of the Pope on Councils.—That should the Indiscretion of some Protestant Synods, furnish an Handle to impeach particular Assemblies with a Want of Order, Decency, and Freedom; yet, That such Charges, if true, would not evince the Gravity, Wisdom, Integrity, or Freedom of general Councils, wherein the Demands of Redress, from most of the States of *Europe*, were frustrated for three Centuries before the Reformation.—That the long and continued Applications for Reformation, and the patient Acquiescences of Princes under the Denial of Justice in general Councils, was a Demonstration, that the Reformation was not an accidental Undertaking.—That the Princes and States who had long submitted to pontifical Usurpation and Violence, despairing of Redress,

dress, began at length to form Resolutions of resuming their original Supremacy and Right of providing for the Exigences of the national Church by their own Councils and Powers.— And that consequently, in their Judgment, every national Church had its Option, whether to wait the Pope's Motion and Concurrence in a Reformation, or to proceed therein by their own Authority.

C H A P. II.

THIS short View of the State of the ecclesiastical Government thro' *Christendom*, before *Henry VIII.* had entertained any adversary Thoughts of the Pope, discovers the general Ground of the Representation of the Clergy to King *Henry VIII.* in the Parliament of 1533, "That our ecclesiastical Laws were overmuch
"onerous, &c." To this Statute there will be Occasion to refer so often, that it may be convenient to set a Part of it forth.

25 Hen. 8.
cap. 19.

"Where the King's humble and obedient
"Subjects, the Clergy of this Realm of *England*, have not only knowledged according
"to Truth, that the Convocations of the
"same Clergy, is, always hath been, and
"ought to be assembled only by the King's Writ,
"but also submitting themselves to the King's
"Majesty, have promised, *in Verbo Sacerdotii*,
"that they will never from henceforth presume
"to attempt, alledge, claim, or put in Ure, or
"enact, promulge, or execute any new Canons,
"Constitutions, Ordinance provincial, or other,
"or by whatsoever other Name they shall be
"called, in the Convocation, unless the King's
"most royal Assent and Licence may to them
"be had, to make, promulge, and execute the
"same; and that his Majesty do give his most
"royal

" royal Assent and Authority in that Behalf.
 " And where divers Constitutions, Ordinances
 " and Canons, provincial or synodal, which
 " heretofore have been enacted, and be
 " thought not only to be much prejudicial to
 " the King's Prerogative Royal, and repug-
 " nant to the Laws and Statutes of this Realm,
 " but also overmuch onerous to his Highness
 " and his Subjects: The said Clergy hath most
 " humbly besought the King's Highness, that
 " the said Constitutions and Canons may be
 " committed to the Examination and Judge-
 " ment of his Highness, and two and thirty
 " Persons of the King's Subjects, whereof six-
 " teen to be of the upper and nether House of
 " the Parliament, of the temporal, and other
 " sixteen to be of the Clergy of this Realm; and
 " all the said two and thirty Persons to be cho-
 " sen and appointed by the King's Majesty:
 " And that such of the said Constitutions and
 " Canons as shall be thought and determined by
 " the said two and thirty Persons, or the more
 " part of them, worthy to be abrogated and
 " adnulled, shall be abolite and made of no Value
 " accordingly. And such other of the same
 " Constitutions and Canons, as by the said two
 " and thirty, or the more part of them, shall be
 " approved to stand with the Laws of God, and
 " consonant to the Laws of this Realm, shall
 " stand in their full Strength and Power, the
 " King's most royal Assent first had and obtain'd
 " to the same. Be it therefore now enacted by
 " Authority of this present Parliament, ac-
 " cording to the said Submission and Petition
 " of the said Clergy, that they, ne any of
 " them, shall from henceforth presume to at-
 " tempt, alledge, claim, or put in Ure any
 " Constitutions or Ordinances, provincial or
 " synodal, or any other Canons; nor shall e-
 " nact,

“ enact, promulge, or execute any such Ca-
 “ nons, Constitutions, or Ordinance provinci-
 “ al, by whatsoever Name or Names they may
 “ be called, in their Convocations in Time
 “ coming, (which always shall be assembled
 “ by Authority of the King’s Writ) unless the
 “ same Clergy may have the King’s most roy-
 “ al Assent and Licence to make, promulge,
 “ and execute such Canons, Constituti-
 “ ons, and Ordinances provincial or synodal,
 “ upon pain of every one of the said Clergy,
 “ doing contrary to this Act, and being there-
 “ of convict, to suffer Imprisonment, and
 “ make Fine at the King’s Will.

§. II. “ Provided alway, that no Canons,
 “ Constitutions, or Ordinance, shall be made
 “ or put in Execution within this Realm, by
 “ Authority of the Convocation of the Clergy,
 “ which shall be contrariant, or repugnant to
 “ the King’s Prerogative royal, or the Cu-
 “ stoms, Laws, or Statutes of this Realm;
 “ any thing contained in this Act to the contra-
 “ ry hereof notwithstanding.”

In 1532 a Restraint had been laid upon Ap-
 peals to *Rome*; but the Canons being left in
 full Force, made the Nation less sensible of their
 Delivery from the foreign Yoke, as they still
 felt the Disagreement of these Canons with the
 Elements of the Feudal Law, out of which the
 civil Constitution was formed; and found many
 ecclesiastical Innovations interfering with the
 Customs which had before prevailed in this na-
 tional Church. In this Sense, after the Nation
 had shaken off the foreign Yoke of Appeals
 in 1532, the Canons continued a domestic
 Burden upon it in 1533, as was set out in the
 Preamble of the Statute of the 25th of *Hen-*
ry VIII.

It

It would, in truth, be difficult to account for the great Revolutions, which happened within the Compass of six Years in King Henry's Reign, upon any other Hypothesis, than of a previous Dissatisfaction in the Nation with the domestic Administration of the Ecclesiastical Government. For Change of Opinion in Matters of Doctrine does not appear to have contributed any thing towards that great Turn; the King persisting in Catholic Sentiments, and *Cranmer* himself not having emerged out of the Depths of Transubstantiation, till several Years after their Renunciation of the Pope.

Strype's Life
of Cranmer.

The *Albigenses*, *Waldenses*, *Lollards*, and *Wicklévites*, had indeed long before whispered abroad Sentiments that were said to disagree with the Doctrines of the catholic Church; but as the *Credenda* of Religion, upon which the Clergy then laid the greatest Stress, consisted chiefly in Articles about the Power and Revenues of the Church, little more is known with Certainty as to the Tenets of those Dissenters, than that they spake freely against the Manners of the Clergy, especially as to their Use of Excommunication, and Demands of Tythes. For *Wickliff* retracted whatever sounded incongruous with Transubstantiation, and *John Huss* was not chargeable with the least Aberration from it.

L'Enfant's
Hist. of the
Council of
Constance.

Neither is it to be ascribed altogether to the Quarrel between the King and the Pope, (for the Nation had seldom intervened in personal Disgusts between the Crown and the Mitre, which were not infrequent,) but rather to their Despair of Relief from many domestic Pressures, so long as there was any Connection between the King and the Pope; which prompted them to lay hold on the King's Resentment, to

shake off the Burthen of ecclesiastical Innovations.

What those were, will be more readily discerned from a Review of the former State of Things.

Tacitus.

As there are scarce any Vestiges of the Language or Polity of the unhappy Britons left amongst us, it may be proper to pass over their Ruins, and begin with the Saxon Government; which was founded in this Principle, that all Matters of general Concernment, were to be managed by the Consent of the Community; that is, by the Advice of all Persons considerable for their Offices or Possessions. “*De majoribus omnes.*”

When therefore Christianity became the prevailing Religion, it soon received Protection from the Laws of the Land, and obtained by Degrees a more perfect Establishment, as the civil Constitution advanced to a better and more orderly Settlement.

Whilst the Isle was divided into different Kingdoms, the Affairs of Religion fell chiefly under *Diocesan Regimen*, and the Power of the See of *Canterbury* was little more than titular, except within the Precincts of the Kingdom of *Kent*; metropolitical Jurisdiction being in its Nature and original Use, conterminous with the Territory of the Prince, insomuch as the Bishops in other Divisions of the Heptarchy denied all Obligation to receive Consecration from the Archbishop of *Canterbury*: Yet even in this precarious Period, many Monuments appear of civil Interposition in ecclesiastical Concerns; Laws being made for * the Protection of the Persons and Estates of the Clergy; about † the Observance of *Sunday*; Administration of Baptism, † Bishopricks were united and dissolved,

and

Vita Wilfredi,
& Bede.

* Dooms of
Ethelbert, An.
602. Spelm.
Vol. 1. p. 127.

† Laws of
Ina, An. 693.
Ibid. p. 182.
and Dooms of
Withred, An.
696. Ib. 194.

|| Bede, l. 3. 4.
5. c. 7, 12,
19. and Chron.
Sax.

and Bishops appointed to, or amoved from Sees, by the King or great Council.

Indeed, wherever any Principles of the feudal Law prevailed, (as they did in all Places more or less, where Off-shoots from the northern Colonies got footing,) Religion was entertained as a national Concern, and the Prelates appointed or amoved as here, by * the State, or Prince, in Virtue of their . . . Supremacy, and as chief Administrators of Religion, admitted into national Councils; neither was there any Exception thro' the several States of *Europe* to this Practice, except in *France*, during the Reign of *Charles Martel*, who excluded the *French* Bishops from Parliament, on account of their † Renitence against his Endeavours to impair the Freedom and ancient Rights of that Assembly.

But when the *Saxon* Constitution came to greater Maturity, || the Presidence of the See of *Canterbury* was settled in 803; and in the Reign of King *Alfred*, civil Sanctions were provided, not only about § Life and Manners, but Faith and Doctrine; not only about Maintenance of Priests, but their Ministration of divine Offices; not only against Uncleaness and Incontinence, but about Dispensations of Marriage, Espousals, Contracts, &c.

The Establishment of Tythes likewise advanced by Degrees; for some time they were paid and received as Offerings, Dues, for the Recovery of which there was no civil Coercion. *Offa*, in Imitation of *Charlemaine*, first added legal Sanctions in 794, to the original Obligation of paying Tythes of all that Men possess. This Settlement extended only to the Kingdom of *Mercia*. Sixty Years afterwards *Ethelwolph*, in a great Council, carried the Establishment thro' the

* Vit. Wilfredi, Ingulf. Chron. Sax. M. Paris, Angl. sacr. . . Grot. de Imp. sum. Pot. c. 10, 12. & de Marca.

† Boulanviller's Hist. of the Parl. of France.

|| Chron. Sax. p. 67. & Spelman, p. 293, 324. § L. Alfred An. 877. Spel. p. 354. & An. 878. p. 390. Ib. p. 425.

Spelman and
Wilkins's
Saxon Laws
and Councils.

the whole Isle, charging not only the Demesne of the Crown, but all the Lands in the Realm with the perpetual Payment of the tenth of their Produce; and this Law was re-established by the League of *Alfred* and *Gutbrun*, and the successive Confirmations of *Edward*, *Atbelftane*, *Edmund*, *Edgar*, and *Ethelred*.

But the Partition of Tythes into distinct Parcels and Apportionments did not immediately follow their first Establishment; the setting out parochial Rights, Forms of Institution to separate Cures, and Provisions about Residence, being a later Work; from whence some Moderns have injudiciously concluded, that Tythes are in their Nature voluntary Consecrations, — A Conclusion as sound as if they should argue, that Property subsists by mutual Complaisance, and hath no Foundation in the eternal Rules of Justice; since the Time can be pointed out, when all things were in common.

Neither was less Attention given to the executing than making good Laws. The Regulations for this Purpose were as follows.

The Island was cantoned out into several Shares, or Shires, and these again subdivided into lesser Franchises; each of them, like so many petty States, having a Government within themselves; by which they reaped all the Advantages that could be expected from a speedy and unexpensive Method of administering Justice; for, upon the Appearance of the Party, the contested Right or Offence charged was to be determined before the Courts broke up: And as their Jurisdiction extended to all civil Actions, not exceeding the Sum of forty Pounds, and to most Crimes, there was seldom Occasion to travel far from Home in Pursuit of Redress.

Analogous

Analogous to this Order in the State, was the Disposition of the Church; that is, the Bishop, or the *Missus Episcopi*, presided with the Alderman in the County, with the Sheriff in the Tourn, with the Centgrave in the Hundred, with the Tungereasa or Town-Reeve in the Borough, with the *Præpositus Villæ* or Steward of the Manor in each Parish; and Breach of Faith, of Sabbath, Non-payment of Tythes, Irruption into Monasteries, indecent Familiarity with Nuns, neglect of Rules of monastic Orders, Perjury, Incontinence, and other Disorders in Clerks, especially careless and irregular Ministrations of divine Offices, were corrected in these Courts with a Degree of Expedition, equal almost to the Order prescribed for the Dispatch of the Causes of the Clergy in the *Justinian Code*.

Hicks's Epist. Dissert. p. 56.

Wilkins's Collection of Saxon Laws.

Justinian, that wise Legislator, foreseeing that nothing could be more detrimental to ecclesiastical Persons and Things, than prolix Litigations; provided, that the Bishop in civil Actions of the Monks and Clergy, should proceed summarily, disallowing him the Delays common to other forensic Discussions; and directing, that his Right of Audience should devolve to the secular Magistrate, in Case he drew Matters out into Length; and that in Crimes of State, charged upon the Clergy, which of Course belonged to the Cognisance of the President of the Province, Sentence should be given within two Months after Contestation of Suit, that the Clergy might not be detained from their Cures by the Tediousness of judicial Proceedings.

Novel. 83, 123.

The same Regulations were made by *Alaric* the Goth, in the sixth Century, when he continued to the Bishops of *Italy*, the Cognisance of

Hist. of Naples, V. 1. p. 181.

of the Causes of the Clergy, viz. That if the Bishop made Delays, then the Party might resort to another Tribunal. "*Tunc ad secularia Forā jurgaturus occurrat.*"

Besides the Advantage of a quick Dispatch, our Church remained free from all Clashings with the State, so long as the chief Rules of ecclesiastical Discipline (such as the Dooms of King *Ethelbert*, the Laws of *Ina*, the Dooms, &c. of King *Witbred*, the Laws of *Alfred*, and also of *Gutbrun*, *Atbelstan*, *Edmund*, *Edgar*, *Ethelred*, *Knute*, and *Edward* the Confessor) were enacted in national Councils, and the same judiciary Forms were common to civil, as well as ecclesiastical Causes. During that Period, there were no Prohibitions upon the Courts of Bishops, or their Delegates, no Attachments for Contempts, no Indictments for usurping upon the Honour and Dignity of the Crown, no Embarrassment upon the Subject in Consequence of unstated Claims between contending Jurisdictions; and, what ought to be remarked, no Interruption from *Rome*; the Mixture of civil Jurisdiction being an effectual Barrier against Appeals.

But these Advantages, tho' well secured by the Conjunction of the two Jurisdictions, yet are not to be considered as necessarily dependent upon it.

The Weight of *Diocesan* Jurisdiction by itself, consists partly in the due Subordination of the *Diocesan* Clergy to their Bishop; partly in its Influence to support Virtue and good Manners, and restrain the Progress of Vice and Immorality; and partly in that Authority which results from a prudent Administration, as well of these Powers, as of other Jurisdictions annexed to this Office by the Favour of the State, and

and national Usages. And neither Discipline, nor the Ease of the Subject, would have been prejudiced by the Separation, if Diocesan Courts had continued to dispatch whatever was appointed to their Cognisance, in that unexpensive and expeditious Course *, which procured the Love and Veneration of the People to Bishops, whilst they sat in the County Court.

* Temple's
Introd. to the
Hist. of Eng-
land.

Neither is this a meer Conjecture; for before the *Gothic* Regimen prevailed, the World had Experience in the fourth and fifth Centuries of the Weight of the episcopal Audience; and that without any Accession to it by a formal Conjunction with the secular Magistracy, it was not inconsiderable in the Scale of Government, so long as diocesan Episcopacy enjoyed its full Rights, and Ecclesiastics proposed no other End in the Exercise of their Jurisdiction, than the Advancement of the joint Interest of Church and State.

Such then was the Constitution of this Church and State, for which our Ancestors entertained so lasting an Affection.—An Affection not owing to the Impressions of Custom, which in many Instances hath inflamed the unthinking Populace to stand up for the useless Fashions of their Country; but to the Experience of Ages, that there was nothing despotic in this Plan, and that a Distribution of legislative Power thro' the different Ranks and Orders of the Realm was the most effectual Way to preserve the Poise of Government; since the Clergy and Laity, in whose Hands Shares of the common Liberty were deposited, had equal Incitements to prevent the Growth of an exorbitant Magistracy, which might prove dangerous to their united Interest. But all human Constitutions have their Period.

II. *William*

II. *William* the Conqueror, who was jealous of the Power of the Clergy, had separated the civil and ecclesiastical Courts in his *Norman* Dominions, perhaps with a View to check the growing Influence of the Prelates. The Jurisdiction of the County Court, not only increased the Revenues of the Bishop, by the Share he had in all Fines raised from the Issue of Causes there determined; but heightened his Credit amongst all Sorts of People, who paid great Attention to his Judgment, which he may be presumed to have delivered with the Advantage of more Learning than the secular Judge, whose chief Qualification for the Bench in that military Age, could not be expected to exceed a Competence of Mother-Sense and Integrity. Hence also an Opportunity in the Bishop to correct the guilty and protect the innocent Clergy.—An Opportunity not to be trusted in the Hands of those who were unhappy in their Fidelity to the former Prince.

Vide Leges
Hen. I.

The same Order therefore was made, (tho' the Execution of it was respited for a Time) to exclude the *English* Bishops from the County Court, as had passed on the *Norman*.

It is not natural to suppose there was sufficient Foresight in the Nation to discern the Consequences of such a Separation; the Benefit of a long Alliance had been felt, and that of itself was enough to create a Dislike of the Rupture. Yet why the Clergy, who are a distinct Order, and the Church, which is a distinct Society, should not be governed by Rules peculiar to their Profession and Constitution, were Questions not easy to be answered; therefore in time the Separation took place: The ill Effects of which were indeed accidental, and occasioned, not by an Indisposition in the Powers proper to a Church,

a Church, to set all things in order in the Church, but came from uncanonical Usurpations, against which ecclesiastical Power is not of itself a sufficient Barrier.

The Pope had often endeavoured to break in upon the Independence of this Church; and the Deference paid to the apostolical Chair in Consequence of the Mission of St. *Augustin*, and the frequent Applications from hence for Advice, furnished his Holiness with Opportunities for Practice.

An Attempt or two in this Way, may be properly instanced. There was no Point, which the Pope more industriously pushed, than his Rights to superintend Bishops and their Sees: After therefore a long Correspondence between the *English* Church and *Rome*, Pope *Agatho* laid hold of the Expulsion of *Wilfred*, by King *Oswey*, for absenting from his Diocese, to make an Experiment of his Power; and sent an Order for his Restitution, with Threatning of Excommunication in Case of Refusal: But King *Elgfride*, to whom this Order was to be delivered, instead of remanding *Wilfred* to his See, committed him to Goal, by the Advice of the Prelates and Nobles, who were convened to consult upon this Affair.

An 664. Vita Wilfredi, p. 58. & Bede.

Pope *John*, a Successor of *Agatho*, interposed again for *Wilfred*, about 704; but *Alfred* then King of the *Norumbrians* declared, "That what had been done by his Predecessor, with the Advice of his Council, and the Archbishop and Bishops, he would never alter for what is called the Writings of the apostolic See."

Vita Wilfredi, c. 61.

Again, as soon as the *English* Bishops, about 798, perceived the Snares of the Pall, and that a Maxim was innovated with great Industry,

That

* Concil. Brit. That * Metropolitans ought to fetch, or send
 V. 1. p. 237. for Palls to *Rome*, which had formerly been re-
 ceived as meer Compliments; — They remon-
 strated against it in a synodical Epistle to Pope
Anglia sacra, Leo, and shewed the Novelty and Unreasona-
 V. 1. p. 461. bleness of that Practice.

M. Paris.

Once more, *William* the first having request-
 ed Assistance from *Rome*, to resettle the *English*
 Church and Clergy, after the great Revoluti-
 on, and Bishop *Hermenfred*, *John* and *Peter*
 Cardinal Priests coming over hither in 1070,
 as the Legates of *Alexander* the second for that
 Purpose; it did not consist with papal Policy,
 to let slip so favourable an Opportunity, to
 establish a closer Conjunction with this
 Church.

Ibid. & Ead-
 mer.

A stricter Correspondence and Intimacy was
 therefore industriously set on foot with the *En-
 glish* Clergy, the Necessity of the Pall, and of
 paying personal Homage to the Pope asserted
 in 1093, a Remission of Investiture demanded
 in 1100, and a Legate obtruded upon the Na-
 tion at the same time, and again attempted a-
 bout 1121.

However these Essays were ineffectual so
 long as the Crown intervened; for *William I.*
 and *Henry I.* prohibited all Commerce and
 Communication with *Rome*, without their Pri-
 vity, nominated to Bishoprics, convened Sy-
 nods, and refused Admittance to Legates, on
 the Exercise of their Legatine Functions, if
 they came uncalled. But when the civil and
 ecclesiastical Jurisdiction came to be separated,
 and diverted into different Channels, which
 happened not before the latter End of the
 Reign of *Henry I.* this Change produced a
 Crisis more favourable to the Designs of
Rome.

For

For no sooner was the ordinary Government of the Church observed to be intirely in the Hands of the Clergy, and the Affairs of Religion seldom brought under the Eye of the Crown, then Men were led to mistake the admonitory Power of the Clergy, for a Right to legal Authority ; and the Influence their Exhortation and Advice ought to have upon Conscience, for a Charter to the Exercise of external Discipline ; in Consequence of which Mistake, the Disunion of the Bishop and Sheriff, proved in Event, a Cession of the Royal Supremacy ; and the Cession of the Supremacy opened the Door for Papal Dominion ; the Clergy of themselves not being able to uphold the Independence of the national Church, against the Power and Artifices of *Rome*.

Henry II. endeavoured in 1164, to recall the Artic. Clar. Clergy to their proper Subordination, by sub-^{An. 1164.}jecting their Judgments to his Review upon Appeal ; but it was then too late. Since the Separation of the two Jurisdictions, the Church had been without Protection from the Crown above thirty Years, and no effectual Opposition appeared against the free Inroads of Legates in 1125, 1138, 1142, except by the national Clergy ; who, whatever Deficiencies they are chargeable with, have never been wanting in Duty to their Country.

And in this Exigence, the Archbishop, Bishops, and Clergy, expressed so strong a Resentment against the now growing Presumption of Legates, to call and preside in Synods, and superciliously steer the Affairs of an independent Church, that the Court of *Rome* had no other Way to stem this Renitence, than by attempting to take off the Leader of the Opposition.

Spelm. v. 2. p. 323. An. 1125. & 1138. Gerv. Dorob. M. Paris. 1142. Spelm. v. 2. p. 45.

Accordingly this was attempted, and with Success; and Archbishop *Corboil* and *Theobald* were, to the disgrace of Truth and Virtue, prevailed on to accept that Legatine Character, which they had opposed in others, as injurious to the Honour of the Church and Nation, and to graft the illegal Power of *Rome* upon the legal Bottom of Metropolitcal Presidency. Possessed therefore of the lucrative Legateship, these Archbishops convened and presided in Synods as Legates, consecrated Bishops as Legates, exercised all Manner of Jurisdiction as Legates; in short, seemed to be Archbishops for no other Purpose, than to cover the Mischief of their Legatine Character. And what could be objected against the Exercise of Jurisdiction by Legates, who in their Metropolitcal Character, had a legal Right to exercise some Jurisdiction? a Right from whence very baneful Excrescences were soon produced by the Arts of *Rome*, and the Servility of the Prelates of *Canterbury* in a long Succession.

Thus Papal Usurpations got Footing here under a Colour of Right and Justice, in the Semblance of municipal Usages, and the Forms of Law; and the national Church lost its Independence, not by the Violence of foreign Intrusions, but by the Prevalence of domestic Corruption, turning the Edge of the Constitution against the Liberties of its own Citizens.

As therefore from this Date, to the beginning of the sixteenth Century, the See of *Canterbury* became the Instrument and Tool of the Church of *Rome*; so all the Measures that were taken within that Period, by the Prelates of that See, in Contravention of the Agreement between the Principles of the Constitution in Church and State, in Prejudice to the Rights of Episcopacy, in
Subver-

Subversion of the Franchises of the Subject, to the Hindrance of Discipline and Disturbance of the Peace of Religion, ought to be placed to the Account of that Court, by whose wicked Instigations and Orders the ancient Plan of Government Here was destroyed, and a new System of Disorder introduced.

The Progress of these Innovations may deserve Attention.

First, Religion being now made the Property of the Pope, and his Delegates : In the Place of national Councils, or of Parliament, came Legatine Constitutions, Papal Rescripts, Grants and Concessions of Privileges, Decretal Epistles, and Provincial Constitutions ; which last were for the most part Decrees or Decretal Epistles, dressed up in the Form of Provincial Canons, and assented to as such, in our Synods.

By this Observation no Insinuation is intended to the Disadvantage of Synods, (which are the most ancient and approved Method of Ecclesiastical Government, and as they were from the beginning, so ought to be used and continued, in this Church, through all Ages,) but to express a Detestation of Papal Frauds, which were employed to pervert the wisest Institutions, and had made Councils and Synods a Reproach to Christianity.

Of General Councils a Specimen hath already been given ; in the Sequel of this Essay, the Influence of their Arts on our Synods will be shewn.

Secondly, Instead of the plain, simple, compendious Method of administering Justice in the County Court, (or in Diocesan Synods, if after the Association of the Bishop and Count, Diocesan Synods, distinct from the Convention of the Clergy and Laity in the County Court, were

ordinarily held, which is not absolutely certain) came a new Judiciary Order by Citation, Libel, Contestation of Suit, Production of Party principal, Examinations of Witnesses a-part and in Writing, Exceptive Allegation, and Replication, interspersed with so many dilatory Terms, such variety of Practice, so much Intricacy and Subtilty in every Stage, from the first Return of the Process, to the definitive Sentence, as made the Progress of Causes, thro' Episcopal Consistories, not only prolix, tedious and expensive, but the Issue of them too, precarious and uncertain.

p. 236.

Says De Marca, "*Hinc sequitur est novus Judiciorum Ordo, ad Cognitiones per Rescripta Pontificum in Provinciis instituendas. Unde tot Constitutiones emanarunt de Rescriptis, de Judicibus delegatis, de Officio Judicis Ordinarii, de Dilationibus, Exceptionibus, Sententiis, & Appellationibus, ut*" (as he observes in a Period or two before) "*Lacertorum perinde ac Inge-
ni Viribus opus sit, ad Volumina ista terenda.*"

This Judiciary Order was peculiar to the Jurisprudence of old Rome; but that forensic Polity, which might well suit the Majesty of so enlarged an Empire, the Subordination of Kingdoms reduced into Provinces, the Remains of Grandeur and Riches in Subject Kings, as well as the Dignity of Senators rivalling the Rank of Princes, or the Learning and Politeness of the Roman Bar; would scarcely fit the narrow Limits of a Diocese, and the narrower Limits of Diocesan Jurisdiction; much less, Suits, touching the poor Revenues of the parochial Clergy, impoverished by Impropriations, Appropriations, Pensions and Corrodies; and the many other minuter Matters and Crimes triable in Consistories:

Consistories : But least of all, that scantling of Literature, which hath in all Ages been the Portion of Canonists.

However, it suited the great Design of the Roman Pontiffs in the twelfth Century ; and therefore, as soon as the Books of the Civil Law, which had been unknown in the *Western* Duck de jure Civili. p. 113. 116. 403. Empire, from the Irruption of the *Goths*, to the Time of *Lotharius*, were recovered about the Year 1128, the Court of *Rome* extracted from them the Judiciary Order, that we now find in the Books of Decretals, collected by *Gregory IX.* in 1231, *Boniface VIII.* in 1298, and *Clement V.* in 1308 ; in * Conformity to which, Episcopal * Ibid. Consistories shaped their Practice, in most Parts of the *Latin Church*.

In 1549, was published at *Louvain* by Authority, a Collection of the Bishop of *Liege's* Statutes, for the Consistory and Diocese of *Liege*, containing the several Amendments and Alterations in the Rules of Practice from 1287 to 1547. These Statutes frequently refer to the Decretals ; and four of the Sets were submitted to, and approved by successive Popes, viz. that in 1432, by *Eugenius IV.* that in 1451, by *Nicholas V.* that in 1458, by *Pius II.* and that in 1479, by *Sextus IV.* and many of the original Formularies, drawn by the Bishops of this Province, for the Use of their Diocesan Courts, analogous to the Rules of Practice in the Decretals, are still extant in our Registries. It was not, in Truth, in their Power to establish a brief, simple, and unexpensive Methods ; for as it is the Lot of the weakest to submit to the Law of the Conqueror, so inferior Jurisdictions must fashion their Practice according to the Mode of the Court of Appeal, how reluctant soever they may be. Vide Appen. of a Letter to Dr. Lalle, n. 2.

Brown's Fascic. v. 2. p. 256.

Pryn. v. 2. p. 704, 708.

Ibid. p. 969.

* If they who are suspected, be such as no one will, or dare accuse, the Sheriff at the Bishop's Request, shall cause twelve lawful Men of the Vicinage, or Village, to take their Oaths, they will discover the Truth according to their Conscience. Artic. of Clarend. A. D. 1164. Spelm. v. 2. p. 63.

The burthenfomness of this Innovation is farther illustrated by the Words of *Robert Grossthead*, Bishop of *Lincoln* in 1250, viz. "*Quod Cause tractantur per omnes Subtilitates Juris Civilis, & Vitiatorum Correctiones differuntur in longum, & forte in perpetuum.*" This Prelate seems to have endeavoured to avoid that Dilatoriness, which he held to be fatal to Discipline, by using the Method of Tryal by Juries, instead of the Subtilties of the Civil Law. For about the Year 1244, several Prohibitions appear to have been issued against him for calling Laymen "*ad Recognitiones per eorum Sacramentum faciendas*;" and from another Prohibition granted soon after, against the Official of *Durham*, for citing Persons to answer, "*Super Articulis ipsos non contingentibus*," it is still more probable, that these Summons were Orders for the Pannel of a Jury; because, upon a Supposition that the Laymen cited, were common Witnesses, to be examined in the Ecclesiastical Court, according to the ordinary Course of Practice, there could have been no Ground for these Writs of Prohibition. But as the Bishop ought not by his own Authority to pannel a Jury, which by the Articles of *Clarendon* in the Reign of * *Henry II.* was reserved to the Sheriff in such Ecclesiastical Causes, wherein the Bishop should desire the Assistance of a Jury; here was Cause of Prohibition, if the Bishop is supposed to have made the Pannel by his own Summons.

But vain were all Essays to rectify forensic Abuses. For this Abuse was established by the Answer of Pope *Honorius III.* to a Question of the Archbishop of *Ravenna*, "Whether

“ther he should allow an Exception taken by
 “a Defendant to a Plaintiff’s Right of conti-
 “nuing an Action, which he had spun out for
 “above three Years?” “*Mandamus*, says Decret. Greg.
 “*Honorius, quatenus hujusmodi Exceptione non* de Judiciis.
 “*obstante, procedas in negotio juxta Formam tibi* c. 20.
 “*traditam.*”

But in 1442, Cardinal *Cusanus* proposed a Regulation of this Practice. He writ a Treatise *De Catholica Concordantia*, to dissuade a Separation from *Rome*, towards which he had discovered a growing Inclination through Christendom; to prevent the Progress of a Separation, he maintained, “*Nullam posse Causam dari, ob quam necessarium sit ad Schisma pervenire;*” and thereupon proposed several Amendments in the Administration of the Church and State; amongst which one was, “*Quod Lites abbreviandæ sint, &c. & leves Appellationes inhibendæ.*”

And in the Church of *Scotland*, strong Remonstrances were made against the Prolixity of Suits in Ecclesiastical Courts. One of them began as follows, viz. “Remonstrance to the Concil. v. 4.
 “Prelates and other Churchmen assembled in p. 59, 208, 213.
 “Provincial Council at *Edinburg*, craving Redress of Grievances. 8. *Item*, Because the
 “*Laigis* of this Realm are havely hurt by the
 “lang Proces of the Consistorial Jugement, as
 “hath been at mair Length declar it and shewin
 “to my Lordis of the Spirituality; and that pur
 “Men havon just Cause, oftines ar constraint
 “to fall fra yar righteous Action, through
 “lengthening of saids Proces, and exorbitant
 “Expences yat they ar drawn into, as
 “wele in the first Instant, as by Appellation
 “from Place to Place, from Juge to Juge,
 “&c.”

Thirdly, The Diocesan Franchises, of the King's Subjects, as well as of the Ordinary, were invaded by Archiepiscopal Claims, intermixed and armed with Legatine Power.

As no Pre-eminence of Power was in Scripture given to one Bishop above another; so the first Councils, wherein the Superiority of the Metropolitan was settled, carefully provided, that the Metropolitan should not enter within his Comprovincial's Pale, except in Case of neglect; and these make a Part of the ancient Cannon Law.

Concil. v. 4. p. 9, 2, 3, c. 7.

" *Nullus Primas, vel Metropolitanus Diocesis*
sani Ecclesiam vel Parochiam, aut aliquem de
eius Parochia præsumat excommunicare vel ju-
dicare, aut aliquid agere absque ejus Consilio vel
Judicio."

Bede.

* Again in 679
 by the Council
 for British Af-
 fairs under P.
 Agotho Spel.
 v. 1. p. 158.

And in the Council of *Herudford*, about the Year 673, Regulations to this Purpose were established in the *Saxon Church*, * and frequently reinforced by the Reinforcement of the four General Councils in our Synods.

Edm. p. 167.

Upon the Association of the Bishop and Count, the Diocesan Power was over and over established in national Councils, as well as the Right of the Subject to Justice within his own Franchise; and by the Words of the Precept of *William I.* for their Separation, it was provided, "That whosoever shall for the future be called into Question, *Quicumque interpellatus de quacunque Causa vel Culpa*, touching any Spiritual Matter, Civil or Criminal without Exception, should answer before the Bishop of the Diocese." No Diminution of Diocesan Rights was intended by this Separation.

Edmer. p. 85

In the Reign of *Henry I.* the Exercise of Discipline is ascribed by *Anselm*, "*ad singulos Episcopos*"
 " *copos*"

*" copos infra suas Paræcias ; & si ipsi Episcopi
 " in hoc negligentes fuerint, ad Archiepiscopum
 " aut Primatem ;"* and what is more, *Anselm* claimed a Right to consecrate a Church, built by his Predecessor, in a Manor within the Diocese of *London* (but belonging to the Metropolitcal See of *Canterbury*) in Virtue of an ancient Privilege of the Metropolitcal See, to have Jurisdiction in Manors appertaining to it, though situate in another Diocese ; which is an unanswerable Evidence, that there was then no Pre-
 tence to Jurisdiction in the Archbishop, Concurrent with his Suffragans, through the Province, even in Matters of Order, or of Voluntary Administration ; but only to a Command over his own Vassals and Tenants, who were by Courtesy left to his Direction.

Eadm. p. 22.
 and Antiq.
 Britan. p. 33.

Upon this Ground the Bishop of *Hereford* insisted in 1282, "*Archiepiscopum Cantuariensem nullam posse in suos Subditos exercere Potestatem, nisi in sui Defectum.*" And *Richard Gravesend* Bishop of *London* in 1283, maintained his Diocesan Rights by the same Argument, against a Claim to Jurisdiction by the Dean of the Arches, within his District.

Concil. v. 2.
 p. 79.
 Wharton Ap.
 ad Hist. de
 Epif.

Yet neither Scripture, nor the Authority of Primitive Synods, nor the Acts of national Councils, nor local Usages and Customs, could hold up Diocesan Episcopacy against the Resolutions of the Pope to subvert it ; and the Archbishops of *Canterbury*, Deans and Chapters, Monastic and Conventual Bodies, became the willing Instruments of the Pope's Usurpations, and had each a Share in the ravaged Jurisdiction.

In other Realms, the Case was much the same. *John Gerson*, who writ about the Time of the Council of *Constance*, laments the Interruption
 of

Tom. I. De
 Potest. Eccles.
 Confid. 12.

Brown's Fas-
sic. v. 2. p. 234

Mason de Mi-
nist.

of Diocesan Discipline; says he, "*Quis omnia
dinumeraret, per quæ nunc Vigor Ecclesiasticæ,
imo et Evangelicæ Disciplinæ totus fere languit,
emarcuit, evanuit? Concernit hoc Evocationem
tam facilem omnium Causarum ab Ordinariis,
sint Causæ illæ prophanæ, sint sacræ Fidei.
Quales Fidei Causas omnes ab Ordinariis singu-
lis, præsertim in Doctrinis notorie scandalizan-
tibus Diœceses suas, te ubi vigent Studia Litera-
rum velle prohibere, quid aliud est, quam Januam
grandem Erroribus aperire?*" And a Committee
of Cardinals appointed by Paul III. to inquire
into the State of the Church; reported, that
"*Alius abusus magnus est, ex Impedimentis, quæ
inferuntur Episcopis, in Gubernatione suarum
Ovium, maxime in puniendis scelestis & corri-
gendis; quo universus Populus Christianus scan-
dalizatur.*"

But besides this Hindrance, there was another
Inconvenience arose from the Inroad upon the
Diocesan Precincts, viz. that our Bishops, who
could carry back their Authority, thro' a long
Series of legal Establishments, to the Founda-
tion of Christ and his Apostles, were not for-
ward to surrender up themselves and their Juris-
dictions; so that hence ensued a kind of Cadme-
an Church, in which Prelacy and Contention
grew up together.

Complaints about Discipline were of a long
standing; no Age of the Church was absolutely
free from the Excesses, and the Evils that at-
tend them; but over and above the Defects
common to other Times, this Spirit of En-
croachment, Competition, and Usurpation of
one Part of the Ecclesiastical State upon another,
was a Calamity peculiar to the 12, 13, 14, 15,
and 16th Centuries of the Church; and the Col-
ledge of Bishops, though knit together by all
the

the Ties, that could influence Men of Virtue and Conscience to concur in the great Ends of Religion, were fallen to pieces about the new Claims, derived from Concessions of the Pope, to Jurisdictions, in Wills and Administrations, Right of Appeals, Visitations and the like. Inasmuch as the Archbishops and their Suffragans, instead of contending for the Faith, had been roundly employed, during that Period, in contending for Fees.

These Disorders were not a little aggravated, by the Disputes between Ecclesiastics and the Crown, about the Right of Investiture, Provisors, Jurisdiction over criminous Clerks, &c. But as the Attention of the World no longer turns upon these Claims, the Traces of which are happily worn out ; it may be proper to pass to other Controversies, which survived.

First then, as to Visitations.

Archbishop *Boniface* began this Practice about the middle of the thirteenth Century, in the Province of *Canterbury* ; the Way to it being opened by several Legatine Perustrations, through all Parts of the Latin Church ; and particularly of this Nation by *John Ferentine*, a Foreigner, A. D. 1206, in 1206, of the Principality of *Wales* by *Baldwin*, M. Paris, and Antiq. Brit. and of the Province of *York* by *Hubert*, Archbishops of *Canterbury*, in their Legatine Character. But in the *Greek Church* something of this kind had been attempted by Metropolitans in the ninth Century, under the Colour of Visits of Friendship and Civility.

In the nineteenth Canon of the Council of *Constantinople*, held in the Year 861, it was decreed, that Metropolitans should not remove from their own into other Diocesess, abusing their Authority to consume the Revenues of the Churches of their Suffragans ; yet when they were

Dupin. v. 3.
Cent. 9. p. 98.

were obliged to Travel through any Diocese, they should be received with brotherly Hospitality; being cautioned, at the same Time, to proceed on their Way, without making any long stay, or exacting any Thing from the Bishop or his Church. They had a Way, it seems, of coming uninvited, and with an Air of Curiosity, that very much resembled an Authority to scrutinize the Conduct of their good Friend and Brother, in the Government of his Diocese: So that the Bishops, growing suspicious of this Curiosity, as well as tired with the Expence of frequent Entertainments, got the Council to excuse them from a Familiarity, which they foresaw might be made an Occasion of Incroachments upon their Rights. This check put a stop to Metropolitcal Advances in that Way; but *Gregory II.* had projected a Scheme for promoting the Grandeur of the *Roman* Pontiffs, which proved serviceable to other Metropolitans.

This enterprizing Pope, observing, that the Independence of national Churches was chiefly upheld by the Authority, which the Bishops claimed from Scripture, and primitive Canons, to the Government of their own Dioceses; and that though the Bishop of *Rome* was generally allowed to be the Vicar of *Christ*, and Head of the universal Church, and the Bond of Catholic Communion, yet that few Applications were then made to the Holy See, from the distant and remote Parts of Christendom, resolved, for the breaking through this Barrier, to carry home his Power to their own Doors, and set up his Tribunal in every Province, by Legates, who should not be stinted in their Commission, to the Rehearing of Causes, in the Way of Review only, according to the Plan of the *Sardi-*

can Canons, but be empowered to exercise original Jurisdiction of all kinds. Beveregii Can. p. 484.

The chief Difficulty in the executing this Design, was how to provide a Fund for the present Subsistence of his Missionaries. He knew, that if there was any Ground to hope, that Bishops might be prevailed upon to be eased of a Part of the Burthen of their Functions, it was not to be expected that they should give up one Doit of their Revenue ; and thereupon he concluded to have his first Legation set out upon a disinterested bottom, and shift, as well as it could, upon the Benevolence and Charity of the Faithful. Accordingly, *Boniface* of *Mentz* being at *Rome*, to visit the Sepulchre of *St. Peter* and *St. Paul*, was pitched upon to make the first Essay, and set out for *Germany* with Letters of Recommendation from *Gregory*, to the Nobility and Clergy there ; exhorting them for the Love of *Jesus Christ*, and out of Reverence to the Apostles, to supply him with daily Bread. De Marca de Concord. p. 708, 721.

His Humility and Temperance, in his private Life, as well as in the public Discharge of his Legation, were suitable to his Apostolical Character ; so that from his Example and Conduct, Rules were framed for the future Instruction of those, who were to be employed in the same Service. It may not be improper to mention the Dietary prescribed : Milk was to be their Food, as most likely to form a befitting Countenance for those, who were to preach to the People Fasting and Good Works. And thus a Foundation was laid, for most unwarrantable Usurpations, upon the eminent Virtues of a truly pious Man. For no sooner was the Reputation and Credit of Apostolical Legations established, by the extraordinary Merit of the Missionaries,

De Marca, p. Missionaries, than Piety, Moderation, &c. be-
 738, 740, 685, came Virtues of no longer Use ; their Diet was
 728-9, 30, 1, 2. sumptuous, their Retinue numerous, their Equi-
 Hoved. f. 400. page and Ornaments most superb and magnifi-

cent ; all to be provided out of the Ravage of
 the miserable Province, into which they were
 sent, for the more effectual Establishment of the
 Gospel of *Christ*. The Word PROCURATION,
 which was used to signify nothing more than

De Marca, p. *Provisions in Meat and Drink*, was dignified by
 721, 2, 3, 4, 5. Legates with higher Notions ; and about the
 6, 7, 8. beginning of the twelfth Century, imported an

Ecclesiastical Tribute or Imposition ; with the
 Payment of which to Legates, Archbishops and
 Bishop, were charged by their Oaths at their
 Consecration, amounting sometimes to two
 hundred, and at other Times to a thousand
 Marks, from each Bishop. This being com-
 plained of to the Holy See, as a most insuffer-
 able Exaction, the Bishop obtained Redress,
 and the Legate placed the Tribute on the Paro-
 chial Clergy, in Consideration of Visitation,
 made or to be made, of the Churches within his
 Vicariate. It is not material to inquire, whe-
 ther any formal Composition intervened between
 Legates and Bishops ; these got rid of the Bur-
 then, and those an Opportunity of squeezing
 greater Sums out of the Clergy at large ; and

Dupin. Cent.

13. v. 5. p. 33.

De Marca, p.

725.

to prevent any Difficulty for the future, *Inno-*
cent III. in his 568th and ninth Rescript, and in
 the Council of *Lateran* in 1215, formally pro-
 vided for the Right of Legates to Procurations,
 in Consideration of Visitation, whether they
 visited or no.

Twiss. Vind.
 p. 38.

Procurations being thus settled in Legates,
 Archbishops, who had always opposed the Le-
 gatine Power, begun now to have more favour-
 able Sentiments of it : And the Pope foresaw,
 he

he should find his Account in complementing them with a Commission, which, in other Hands, would continue the Subject of Controversy. This Consideration gave Birth to the *Legati nati*; and the Pall became of real Value to Archbishops, when attended with the Addition of a Power to visit, which would enable them to pay the Pope a better Price for it, and to repay themselves with Interest, out of the Pockets of the Clergy.

The first Archbishop that made the Experiment upon the Patience of his Province, was the Archbishop of *Beneventum*; who about the Year 1227, was, by the Lucre of Procurations, tempted to set on Foot a Visitation of his Province. The Clergy refused to comply with his Demand, and appealed to the Holy See for Protection; knowing his Metropolitocal Character, as described and settled in the ancient Constitutions of the Church, would not justify his Intrusion into another's Diocese: But the Character of Legate was more complex; to which, it seems, they were intirely Strangers.

Gregory IX. found himself obliged to use a little Art in the Forms of his Decree, about a Claim so new and unprecedented; and therefore, instead of clearing up a Point of so critical an Inquiry, gave an indefinite Sentence, that Procurations were due, on Account of Visitation, without any Specification, whether on Account of Metropolitan or Legate. But the Equivocation served the Purpose; the Clergy were defeated, and Metropolitocal Visitations went forward in many Parts of *Europe*. However, *Innocent IV.* for the sake of Peace amongst Christian People, and to remove out of the Way all Occasion of Controversy, soon after established the Authority of Archbishops, with Respect to

A. D. 1227.

Decret. Greg.
de Censibus,
c. 25. p. 637.

A. D. 1245.
Sexti Decret.
Lib. I. De
Cens. p. 776.

to Visitations, and the Payment of Procurations.

About this Time, *Robert Grossthead*, Bishop of *Lincoln* flourished; a Prelate of great Learning, exemplary Piety, and eminent Courage. In the *Lincoln* Registry, there occurs a Bull of Pope *Innocent's*, to exempt the Parochial Clergy of the Province of *Canterbury* from all Demands, under pretence of Metropolitcal Visitations; unless the Provincial Bishops should request a Visitation themselves. *Grossthead* had declaimed so freely against the Corruptions spread thro' Christendom, by the Court of *Rome*, that possibly the Pope might expect to put a Stop to his Remonstrances, by communicating this Compliment to the Province through his Hands. For when *Grossthead* fell afterwards under his Displeasure, for refusing to admit *William de Grana*, an Infant, to a Benefice, upon *Innocent's* Recommendation; *Boniface*, Archbishop of *Canterbury*, thought this a favourable Opportunity for superseding the Bull of Privilege, and levying Money upon the Province, after the new invented Scheme of Visitations practiced abroad. The whole Province was alarmed, and in a Flame at the Report of his Design, and determined in all Places to oppose an Innovation, which none of his Predecessors had ever attempted. But he, who had lived all along a tumultuous disorderly Life, bred up in Noise and Contention, amidst Arms and Camps, equally a Stranger to the peaceable Disposition of the Gospel, and the Decencies of the Clerical Order, was not in the least moved at the unanimous Resolution of the Clergy, to withstand his Invasion of their Liberties.

Accordingly, in *May* 1250, he called the Clergy of *London* to *St. Paul's*; where instead of

Append. No.

Epist. Grossth.
ap. Brown's
Fascic. p. 314.

M. Paris.
p. 780.

M. Paris.

of opening the Assembly with an Exhortation to the due Discharge of the Pastoral Office, as was customary in Episcopal Conventions, he fell upon the Character of their Bishop, with most scurrilous and unbecoming Language, and afterwards excommunicated him. Next Day, he would have visited the Dean and Chapter; but they, as a Collegiate Body, being in a better Condition to stand their Ground, than the Parochial Clergy, shut the Doors of the Church against him, and, despising his Interdicts, appealed to *Rome*. Antiq. Brit. p. 183.

Boniface, upon this Repulse, turning to the Priory of *St. Bartholomew*, was met by the whole Convent, habited in their choral Copes; who had Hopes, by their respectful Address, to abate the Violence of his Temper: but he, looking with an Air of Contempt upon the Solemnity of their Procession, told them in a menacing Tone, he was come to make a Visitation upon them. Whereupon a Brother of the Order replying, that they had a learned and vigilant Prelate, whose Office it was to visit their Chapter when it was requisite; for which Cause, they ought not, and would not suffer themselves to be visited by any other: He, struck with this Answer, as it were with a Frenzy, fell upon the Sub-Prior, who was a very old and infirm Person, knock'd him down with his Fist, plucked off his venerable grey Hairs, and tore his Cap flowered with Gold and precious Stones, to pieces, which became a Prey to his rapacious Attendants; and, falling down himself in the Conflict, it was discovered, upon the Opening of his Cassock, that he, expecting Opposition, had armed himself, not with the Breast-plate of Faith, but with a Coat of Mail. The City of *London*, provoked at this Outrage upon civil

as well as ecclesiastical Government, fell into great Disorders upon it; and Complaints were carried against *Boniface* to King *Henry*: But the Queen, being Niece to the Archbishop, discountenanced all Remonstrances against her Uncle so much, that there was no other Hopes of Relief, but from the *Roman Pontiff*.

M. Paris.

This the Clergy of the Province solicited, with Arguments that seldom failed to prevail at *Rome*; offering four thousand Marks for the Pope's Protection; but *Boniface*, giving more, obtained an Addition to the Privilege of making Visitations, viz. a Grant of the Custody and Profits of vacant Churches within his Province, so that every one was willing to compound for himself, upon the best Terms he could get.

Wharton p. 91.

And this new Grant gave Occasion to the several Compositions, that still subsist between the Metropolitane Church, and the Sees of *Lincoln*, *London*, *Salisbury* and *Worcester*, for the Custody of the Spiritualities, during the Vacancy of the Bishoprick. Other Collegiate Churches, that were less Powerful, surrendered at Mercy, and had not the Satisfaction to retain for themselves or Successors, any part of their ancient Rights, which by the Constitution of the Church, confirmed by the Charters of *Henry I.* and King *Stephen*, they had hitherto enjoyed unmolested; excepting the Seizures made by *William Rufus*, and some other Princes after his Example.

Carta Henrici
apud Spelm.
Carta Steph.
apud Malmfb.

Thus, one Act of Usurpation upon Bishops, furnished an Opportunity for making another upon Deans and Chapters, for which there was no better Pretence, than that in unsettled Times, the Metropolitan had been desired to extend his Care to vacant Sees; but upon the Erection of Deans and Chapters, the Custody of vacant Sees was

was committed to their Care, it being more suitable to the Polity of the primitive Church, to have the Affairs of one Diocese kept independent and unmixed from those of another.

This Point, in Respect to the Derivation of the Concil. v. 3.
p. 484, 485.
Archbishops Power over vacant Sees, from papal Grants, is clearly explained in the Instru-

ment of Suspension of Archbishop Chicheley's Legatine Commission by Pope Martin V. in 1427, it runs thus, "*Te a Legatione dictæ Sedis, nec non ab omni Jurisdictione, Superioritate, Potestate, sive Dominio percipiendi Emolumenta Ecclesiastica aliarum Ecclesiarum Cathedralium quorumlibet dicti Regni, usque ad Beneplacitum nostrum duximus suspendendum: Tibi nihilominus Virtute Obedientiæ injungentes, ne de Legatione dictæ Sedis Apostolicæ, necnon Jurisdictione, Superioritate, & Dominio percipiendi hujusmodi Emolumenta vacantium Ecclesiarum per te vel alium te intromittas; & insuper Jurisdictionem, Superioritatem, sive Dominium dictarum Ecclesiarum Cathedralium Tempore illarum Vacationum, ad dilectos Filios, Capitularum earundem, quibus de Jure devolvuntur, devolvi volumus.*"

It is a disagreeable Entertainment to the Lovers of Antiquity, to find any Part of the Establishment under which they live, derive its Origin from the Insolence and Tyranny of their own Fellow Subjects; and yet this Trespas upon Cathedral Churches, and Innovation of Archiepiscopal Visitations, begun by Force, and carried on by Frauds, for no other End but to pillage the Clergy, after having continued in Practice for some Successions, became at Length so varnished over with a Colour of Prescription, and a long Train of Precedents, that in a few Removes, it passed upon Men of undoubted

Piety and Moderation, for a Right which ought to be upheld, as necessary to support the Honour and Dignity of the Metropolitcal See.

Robert Keylwarby, who succeeded *Boniface* in 1271, finding the Province too much heated by his Predecessor, to bear to be touched by any Power that should resemble his Fury, resolved to lay aside the Forms and Parade of Metropolitcal Authority, and to visit every Diocese, more after the Air of a Mendicant Fryer, than with the Parade and Figure of an Archbishop and Legate of the Apostolic See. This Affectation of Humility gained him the Supplies of Money which he wanted for himself; and the Returns of Respect, that his Moderation in the Exercise of Power drew upon him, strengthened the Pretences of his Successors to greater Acknowledgements.

Concil. v. 2.
p. 84, 85.

Ibid. p. 86.

p. 1234, 1239.

For in 1280, Archbishop *Peccham*, thinking his Jurisdiction sufficiently established, by the Submission into which the Province was deluded by *Keylwarby's* Artifices, assumed another Style; reminding his Suffragans of their Oaths of Obedience to the Metropolitcal See; and issuing out Interdicts against all Persons who should obstruct his intended Visitation. Such a Beginning gave very small Prospect of an amicable Conclusion. *Tedifus de Camilla*, Dean of *Wolverhampton*, disowning his Authority, was excommunicated; and, many severe Courses being taken in the Progress of this Visitation, *Edward I.* interposed in Favour of the Bishop of *Hereford*, and of the Collegiate Churches in *Staffordshire*; his two Precepts to stay the Archbishop's Visitation, may be found in the Appendix to *Prynne's History of Edward I.*

In the former Reign, a Claim had been made by the Crown to the Right of protecting the Cathedral

Cathedral Church of *Lincoln*; and, as there was a great Affinity, in that Period, between the Policy of *England* and *France*, the French King had assumed the sole Power of Visitation to himself, in Exclusion of the Metropolitan. The Pretence for this was, that all Cathedral Churches had received some Share of the royal Patronage and Bounty. However, the Archbishop persisted in his Design; and the Bishops in the following Year presented their Grievances to their Metropolitan, digested into twenty one Articles of Complaint. *Peccham* was soon provided with an Answer to this Remonstrance; and in it gave a Specimen of the dangerous Progress of Innovations, whenever supported by Power, and conducted with Dexterity. For he justified his Method and Right of Visitation “*ex Consuetudine diutius usitatâ*,” from the ancient Course of Practice, though ten Years had not then elapsed since the Death of *Boniface*, who certainly first entered upon it.

M. Paris, p. 767.

Concil. v. 2. p. 75.

Ibid. p. 76.

But it was a stale Artifice of the Court of *Rome*, to cover Innovations, by calling a recent Practice an ancient Usage; so that the Clergy in 1244, when the Pope demanded a Contribution of them, for carrying on a War against the Emperor *Frederic*, refused it, giving this Reason, that their Compliance would be dangerous, because “*binus Aetus inducit Consuetudinem*,” according to his Holiness’s Maxims.

Ann. Burton. p. 298.

Therefore, *Walter Raynolds*, the next Archbishop, who took in Hand this Matter, about the Year 1313, being convinced of the Weakness of the Pretence of a prescriptive Right, purchased several Bulls of *Clement V.* and *John XXII.* to settle the Claim of Visitations and Procurations. Nothing but the great Debt contracted at *Rome*, in soliciting the Pope to

Concil. v 2. p. 434, 5, 463, 553.

Antiq. Brit.
p. 212, 213.

Concil. v. 2.
p. 436.

Antiq. Brit.
p. 220.

Concil. v. 3.
p. 183.

Literæ Court-
ney, papæ Ur-
bano.
Ibid. p. 189.
Antiq. Brit.
p. 269.

overrule the Canonical Election of *Thomas Cobham* to the See of *Canterbury*, and to promote him thereto at the Request of the King, could have prevailed upon a Prelate, of his unactive Temper, to enter upon so Capricious a Method of levying Contributions; but he had the Priviledge, by special Breviat from the Pope, of appointing Delegates to visit, that he might keep himself out of the Bustle of Business, and receive the Perquisites, without the Honours and Parade of a Visitation.

Archbishop *Mepham*, his Successor, was less cautious. After he had passed triumphantly thro' some Parts of his Province, and thought of entering upon the Visitation of *Exeter*, in 1332, he was prevented by Bishop *Grandison*, who upon the Borders of the Diocese, opposed his Entrance by Force of Arms. The Archbishop thereupon gathered what Forces he could get together, determining to defend the Cause of the Church with the Hazard of his Life: But the King commanding him to retire, he was so afflicted at being deprived of an Opportunity of dying a Martyr for his See, that he pined away out of mere Vexation.

Archbishop *Courtney*, no ways discouraged by the Disaster of his Predecessor, resumed in 1383, the Design of visiting this Diocese, wherein his Family was of great Power and Consideration; but in the first Step he received a small Rebuff; too small, one would think, to be made a Matter of Record. It seems, the Person commissioned by Archbishop *Courtney*, to summon the Bishop of *Exeter* to his Visitation, delighted with an Office of so great Importance, had, in a Fit of Vanity, let out the Secret, before he had an Opportunity to do his Errand: And this coming to the Knowledge of the

the Bishop's Servants, they, out of Zeal for the Honour of their Master, and for the Maintenance of the Rights of his Church, seized upon the Mandatary, and made him tear the Wax and Parchment of the Citation to Pieces with his Teeth, and swallow it down Bit by Bit.

But *Edward Courtney*, Earl of *Devonshire*, and Nephew of the Archbishop, supporting his Uncle, overpowered the Bishop of *Exeter* and his Associates, and made them undergo some very mortifying Acts of Penance and Submission.

Arundel, his Successor, was more elated with this Victory, than *Courtney* himself. He had the Spirit of *Becket*, and suffered, like that Martyr, every thing but Death, for the Advancement of the Interest of his See. The Prelude to his Visitation, was an Inhibition Antiq. Brit. P. 271. to the provincial Bishops, in 1396, from the Exercise of all episcopal Jurisdiction. This was a Matter of less Astonishment, than the Prohibition he issued out soon after, against the Use of the Word of God. The Authority of Bishops is asserted to be from the Scriptures; and therefore it could not be expected, that he, who made no scruple to lock up the Scriptures, should leave the Exercise of a Power unrestrained, that was derived from them.

However, succeeding Archbishops thought it advisable, to use this Power in a more inoffensive Way, by visiting only vacant Sees. But the suffragan Bishops were not then disposed to submit to the most temperate Exercise of an usurped Jurisdiction; and therefore joined in a Remonstrance to the Synod of 1512, against Archbishop *Warham* on this Account. Concil. V. 3. p. 656.

It would perhaps be unpolite as well as unnecessary to inquire, whether, during this long

Scene of Altercation, the Fruits of metropolitical Care and Culture were visible, in the Progress of Piety and good Manners; for Compulsion or Intrigue are so opposite to the Nature of true Religion, that they have often proved unsuccessful to Schemes, that retain but the Shadow and Appearance of it.

It served for a while the Purposes of the Court of *Rome* to confer at large ensnaring Favours, and interfering Privileges, that were to prove the Seeds of Contention; hence, That Necessity to resort to the pontifical Chair, which originally created, and for a Season preserved the Dependence of national Churches. But when Length of Time, and the too frequent Repetition of the mischievous Practice, had discovered the Design of the insidious Privileges granted to Metropolitans thro' the *Latin* Church; the detected Fraud raised a general Indignation against the Cockatrice. Of this the Council of *Trent* seemed so sensible, that it was decreed in the twenty-fourth Session, " That hereafter Metropolitans shall not visit the Cathedral Churches and Dioceses of their Comprovincials, except for Causes to be approved by the provincial Synod."

Coriol. summa, p. 1029.

As to the Controversy about what is now called the Prerogative of the Archbishop; that is, his Right to intrude his Jurisdiction within the Districts of his Suffragans, as to the Probate of Wills, and Grant of Administrations, when the Effects of the Testate or Intestate lye in different Dioceses; that stood thus:

In 1282, *John Peccham* being Archbishop, the Vicar of *Wrotham* moved for a Process out of the Court of *Canterbury*, against the Vicar of *Ross* in the Diocese of *Hereford*, as Executor of the

the Will of *Henry de Havecle*, who at the Time of his Death, was beneficed in different Dioceses; and a Process being accordingly issued, the Execution of it was recommended to *Robert le Wyse*, Official of the Bishop of *Hereford*.

Wyse, being not disposed to be *Felo de se*, refused the Service, for which he was forthwith decreed excommunicate; and thereupon the Bishop of *Hereford* received the Honour of being constituted his Grace's special Apparitor, to summon the Vicar of *Ross* to appear in the Court of *Canterbury*.

But the Bishop was as little delighted with the Favour; insisting, that the Archbishop had no Right to intervene in Matters within his Jurisdiction, unless in Supply of his Neglects: For this criminal Contumacy, the unhappy Bishop was decreed to have incurred the greater Excommunication; Sentence being publickly and solemnly denounced in Court, and all good Christians admonished to abstain from Communion with him.

The Bishop of *Hereford's* Plea, was a Claim to the sole Government of his Diocese, as Ordinary and *de Jure Communi*; which in respect of Wills and Administrations, held rather more forcibly, than in other Matters of ecclesiastical Jurisdiction, that were not so specifically defined in written Laws and Charters, as the Right of testamentary Cognisance was.

The Appointment, by the Charter of King *John* in 1215, of the Distribution of Intestates Effects, *per Visum Ecclesiæ*, is an Allotment of all the Incidents of Intestacy, to the Office of the Ordinary of the Place; all Views being at that Time made under the Direction of the Judge of the District, where the Matter in Question was. Moreover, the Meaning of
that

that Expression, is put beyond all Doubt, by the special Application of it to the Bishop, in certain Canons made in 1240, wherein the Execution of the Will, is ordered to pass under

Concil. V. 1. the View of the Bishop, "*per Visum Episcopi*"
P. 674. "*pi.*"

In 1248 another Stile came into Use in the
Athol. p. 107. Probate of Wills, viz. *Prælati sui, Episcopus*
sui, and Ordinarius. And in the provincial

Concil. V. 1. Constitutions of 1261, *Ordinarius Loci* is often
P. 754. to be met with, as likewise in the Council of
Dublin about 1217, and in the *Scotch* provinci-

Decret. L. 3. al Synod about 1225. It was also the Lan-
Tit. 26. c. 17. guage of the canon Law,

And by the general Council of *London* in
1248, the Appropriation of this Jurisdiction
to the Ordinary of the Place, seems to have
been provided for, in Exclusion of the Prero-

Concil. V. 2. *cham* in 1282, "*Super Approbatione Testamenti*"
P. 8. "*ejus, qui in diversis Diæcesibus Beneficia, dum*"
"*viveret, obtinebat, Approbationi illius Episco-*"
"*pi, in cujus Diæcesi Testator decessit, Fidem vo-*"
"*luntatis adhiberi.*"

After this, several of *Henry the Third's* Con-
firmations of the great Charter, wherein are
reserved to the Prelates, the Customs and Li-
berties which they had in Times past, came in
Aid of the Diocesan's Right: and it may de-
serve Observation, that in the ensuing Contro-

Concil. V. 3. versies, the Suffragans laid great Stress upon
P. 653. this, "*Quod de Consuetudine Regni Angliæ, Te-*"
"*stamentorum Approbatio, & bonorum Admini-*"
"*stratio in singulis Diæcesibus Provinciæ Cantua-*"
"*riensis spectat ad Locorum Ordinarios.*"

Nevertheless, this Foundation was not strong
enough to discourage Archbishop *Pecham* from
attempting to subvert it by Legatine Omnipoten-
tence;

tence; for it was in exprefs Terms, *Jure Legationis*, and not as Metropolitan, that he claimed this controverted Jurisdiction: there being not wanting Precedents of his Holiness's Intervention in testamentary Dispositions, to countenance his Legate's Claim to it.

Alexander the Third granted, about the Year 1175, the Effects of deceased Clergymen within the Province of *York*, to *Roger* Archbishop of that See; and in 1246, *Innocent IV.* seized the Estates of *Robert Hailes*, Archdeacon of *Lincoln*, *Almaric*, Archdeacon of *Bedford*, and of *John Hotoſp* Archdeacon of *Buckingham*; granting, about the ſame, a general Commiſſion to the Minorite Friars, to ſequeſter the Goods and Chattels of intefate Laymen, as well as Clergymen, in Excluſion of the next of kin.

Againſt a Grant of this Kind from the Pope to *Henry III.* the Proctors for the Dioceſe of *Lincoln* articulated in the Parliament of 1255, in the following Words; “ *Item gravati ſunt, quod indiftincte legata, quæ ſecundum Voluntatem decedentium in Uſus Pauperum, Parentum, & Servientium, & in alios pios Uſus debent diſtribui, Domino Regi ſunt conceſſa, in alios Uſus, contra Voluntatem decedentium.*”

And amongſt other Indulgences to Laymen, iſſued out of the Chancery at *Rome*, one was, “ *quod Executores in Teſtamento ad diſtribuendum bona pauperibus, illa retinere poſſint, &c.*”

So that the Articles of Impeachment againſt *Wolſey*, “ that by his Authority legatine, he had taken the Goods of deceased Clergymen, by Reason whereof their Wills be not performed;” was a Deſcription of ſuch Exorbitances as Legates had commonly been guilty of, and were authorized to perpetrate.

Neither

M. Paris, p. 945, 962.

Burton. Annal. p. 356.

Taxa Cancell. p. 33.

Cook, Art. 17, 30. of Impeachment of Wolſey, 4th Inſtitute.

Neither is it wonderful, that the Pope, who looked upon himself as Lord of the Universe, and had distributed Provinces, and even Empires, should disregard the Rights of the dead, who cannot complain, or the legal Fences of private Property.

From this fruitful Root, the Prerogative of *Canterbury* made frequent Shoots; there being no one Rule of Discipline more steadily observed by the Metropolitans of that See, than that it was their Duty to imitate the *Roman Pontiff*, in the Use of that Power they derived from him.

Accordingly this Controversy sprouted out again about the Year 1300, between Archbishop *Winchelsea* and *John Dalderby* Bishop of *Lincoln*; but came to no Conclusion, the Archbishop being disabled from carrying it on, by the Displeasure of *Edward I.* who compelled him to leave the Kingdom.

However, it was soon resumed by his Successor, *Walter Raynolds*; and about 1319 was terminated in the following Award.

Regist. Grey,
f. 103. apud
Lincoln.

“ *Noverint universi. præsentes literas inspectu-*
“ *ri, quod cum inter piæ Memoræ Dominum*
“ *Robertum Cantuariensem Archiepiscopum to-*
“ *tius Angliæ Primatem ex Parte una, & Do-*
“ *minum Johannem Dei Gratia Lincolnensem*
“ *Episcopum ex altera, Occasione Probationum*
“ *svæ Insinuationum & Commissionum Administra-*
“ *tionum bonorum, nec non Redditionum Ratio-*
“ *cinii Executorum Testamentorum eorum, qui*
“ *dum vixerint, plura bona spiritualia svæ tem-*
“ *poralia, in Civitate & Diœcesi Lincoln, nec*
“ *non & in aliis Diœcesibus vel Diœcesi Provin-*
“ *ciæ Cantuariensis, aut in Locis aliis Ecclesiæ*
“ *Cantuariensi immediate subiectis hætenus ha-*
“ *buerunt, ubicunque obierunt, quas Probationes,*
“ *Insinuationes*

“ *Insinuationes, Commissiones, Ratiocinii Reddi-*
 “ *tiones, Cognitionesque Causarum, quæ per Cre-*
 “ *ditores & Legatarios vel quoscunque alios quere-*
 “ *lantes contra Executores Testamentorum hujus-*
 “ *modi, pro bonis præcipue hujusmodi decedentium*
 “ *in sua Civitate vel Diœcesi existentibus, ad se*
 “ *& Ecclesiam suam Lincolniensem pertinere de-*
 “ *bere, constanter asseruit, tam de Jure, quam*
 “ *de hætenus approbata, pacificè observata, &*
 “ *obtentâ Consuetudinè ac præscripta, præfato Do-*
 “ *mino Archiepiscopo contrarium asserente, orta*
 “ *fuisse Materia Quæstionis cujusmodi Occasione,*
 “ *inter dictum Episcopum Lincolniensem Partem*
 “ *appellantem, ac præfatum Archiepiscopum Par-*
 “ *tem appellatam, in Romana Curia Lis penderet*
 “ *& pendeat in præsentî, demum hujus Quæstio-*
 “ *nis & Litis Materia inter reverendum Patrem*
 “ *Dominum Walterum Dei Gratiâ Cantuarien-*
 “ *sem Archiepiscopum totius Angliæ Primatem*
 “ *qui nunc est, & dictum Dominum Johannem*
 “ *Episcopum Lincolniensem in Forma quæ sequi-*
 “ *tur perpetuo valitura amicabiliter conquievit :*
 “ *videlicet, Quod dictus Episcopus Lincoln &*
 “ *Successores sui Episcopi, Jure ordinario perpe-*
 “ *tuis Temporibus in futurum, habeant Probatio-*
 “ *nes, Insinuationes, Commissiones Administratio-*
 “ *num bonorum, Auditiones Redditionum Ratio-*
 “ *cinii Executorum Testamentorum decedentium*
 “ *quorumcunque Parochianorum suorum qui plu-*
 “ *ra bona in diversis Diœcesibus provinciæ Can-*
 “ *tuariensis dum vixerint habuerunt, necnon Ex-*
 “ *peditiones earum, ac Cognitiones Causarum præ-*
 “ *dictas, quæ Occasione bonorum hujusmodi inter*
 “ *Partes quasunque, quatenus ad Forum Ecclesi-*
 “ *asticum pertinet, in Lincolnienfi Diœcesi sus-*
 “ *citari continget, reservatâ dicto Domino Archie-*
 “ *piscopo & suis Successoribus, post Redditiones,*
 “ *Calculations, sive Expeditiones alias, Ratiocinii*
 “ *Ad-*

“ *Administrationum Executorum huiusmodi Testa-*
 “ *mentorum, summa & ultima Inspectione huius-*
 “ *modi, ac ab Administratione, Executorum Ab-*
 “ *solutione finali, Ratiociniorum, Calculationum,*
 “ *& Expeditionum, si ea ut Metropolitanus, ea*
 “ *Occasione quod decedentes prædicti obtinuerunt*
 “ *in diversis Diæcesibus suæ Provinciæ plura bo-*
 “ *na, inspicere voluerit. Ita tamen, quod idem*
 “ *Dominus Archiepiscopus, & Successores sui Ar-*
 “ *chiepiscopi ipsas Redditiones, Calculationes, &*
 “ *Expeditiones per prædictum Episcopum factas,*
 “ *absque aliquali Calumnia, & sine Difficultate*
 “ *approbare teneatur. Renunciaverunt insuper Par-*
 “ *tes prædictæ Appellationibus hinc inde Occasione*
 “ *prædicta interpositis, omnibusque Prosecutioni-*
 “ *bus earum; ac Juris Processibus pendentibus*
 “ *sibi competentibus hinc vel inde. In quorum*
 “ *Testimonium Sigilla dictarum partium præsent-*
 “ *ibus litteris, per Viam Indenturæ confectis, hinc*
 “ *inde mutuo sunt Appensa. Acta & data quoad*
 “ *nos Walterum Archiepiscopum prædictum sexto*
 “ *Idus Januarii, Anno Domini 1319, in Prio-*
 “ *ratu Huntingdon.*”

This Award hath been for some time disre-
 garded by the Judge of the Prerogative-Court,
 altho' in Pursuance of it, there are Entries in
 the Registry of *Lincoln*, from 1345 to 1624,
 of Decrees by the Bishop of *Lincoln*, for the
 Revocation of Probates of Wills passed in the
 Prerogative Court, in which there were Goods
 in different Dioceses devised, and the Probates
 afterwards were granted by the Bishop of *Lin-*
coln, according to the Composition.

Concil. V. 3.
 p. 189, 249.

But the other Parts of the Province had not
 so long a Respite; for in 1384, and in 1400,
 this Matter was in Contest between the Arch-
 bishop and the Bishop of *Exeter*: And, in
 1414, certain Commissioners appointed by

Henry

Henry V. to inquire into the State of the Church, represented this Prerogative assumed by Archbishops, as a common Grievance to the Subject, as well as to the Ordinary.

Articulus tricesimus primus. De Prærogativis Cantuariensis & Eboracensis Ecclesiæ. Concil. V. 36
P. 364.

“ Quoniam Prærogativa Ecclesiarum Cantuariensis & Eboracensis, quæ nusquam in Jure determinatur, inferiores Episcopos, aliosque Ordinarios atque subditos infestando plurimum inquietavit, ex qua, eo quod plena Determinatione non agnoscitur, multa Juri dissona consequuntur, & Potestas Ordinariis attributa, ab Executione debita impeditur, &c.”

And upon this Consideration, it was judged equitable in the Year 1707, to relieve the Widows and Orphans of poor Sailors, from the Inconveniencés to which they were subject, by Contentions between the Prerogative Court and the ordinary Jurisdiction. The Act runs in the following Words, viz. “ And whereas great Anno 4, & 5,
Annæ Reg.

“ Trouble and Expence is frequently occasioned to the Widows and Orphans of Persons dying intestate to Monies or Wages, due for Work done in her Majesty's Yards and Docks, by Disputes happening about the Authority of granting Probat of the Wills, and Letters of Administration of the Goods and Chattels, of such Persons; and for preventing such unnecessary Trouble and Expence; be it therefore enacted by the Authority aforesaid, That the Power of granting Probats of the Wills and Letters of Administration of the Goods and Chattels of such Person or Persons respectively is, and is hereby declared to be in the Ordinary of the Diocese, or such other Persons to whom the ordinary Power of Probat of Wills, or granting

“ ing Letters of Administration do belong,
 “ where such Person or Persons do respective-
 “ ly die: And that the Salary, Wages, or
 “ Pay due to such Person or Persons, from
 “ the Queen’s Majesty, her Heirs or Succes-
 “ sors, for Work done in any of the Yards or
 “ Docks, shall not be taken or deemed to be
 “ *Bona notabilia*, whereby to found the Juris-
 “ diction of the Prerogative Court.” *Why*
should not Retail-Traders hope for the like Compass-
sion from the Legislature? But to proceed in the
 Order of Time.

Concil. V. 3.
 p. 641.

The Prerogative growing crazy about the Year 1494, *Alexander IV.* induced, as he was pleased to declare, by no other Motive than his own Knowledge of the Benefits accruing to the Province from it; repaired the Jurisdiction of *Canterbury*, by a new Grant of Privileges, in respect to Testamentary Cognisance.

In this Bull there were two very significant Clauses. The first was a Clause to supply all Defect of Fact as well as Law. The Preamble of the Bull suggested, that the Archbishops had immemorially enjoyed the Privilege of taking Probate of Wills, when the Effects devised were in different Dioceses; lest therefore, the Notoriety of the Falshood of that Suggestion should invalidate the Grant, it was found adviseable to provide a Supplement for Truth.

The second was a general *Non-obstante* to any Authority that was contrary to this Concession; and particularly to the Constitution of 1248, about the Probate of the Will of a Pluralist, which has before been set out at large.

Concil. p. 655.

Upon this Accession of Strength, *Morton* resumed the Exercise of his Prerogative with fresh Vigour; and by the Terror of Excommunications and other Censures, which he fulminated with

with great Profuseness, drove his comprovincial Bishops, their Archdeacons, and the Possessors of Testates and Intestates Effects, in Crowds into the Prerogative Court; where he made himself Judge of the Rights in Controversy, between the Prerogative Court and Diocesan Consistories, and pronounced for his own Jurisdiction.

Against these Violences *Richard Hill* Bishop of *London* remonstrated to the Pope, as did likewise *William Warham* his Successor in the See of *London*, opposing this Extension of the Prerogative with more Spirit than Foresight. For he, who had once been the most strenuous Advocate for Diocesan Rights, was no sooner exalted to the Primacy, than he carried his Prerogative with an higher Hand, and gave greater Incouragement to the Incroachments of his Officials, than any of his Predecessors had done. Therefore all the Suffragans of the Province concurred in a synodical Complaint against him in 1512, and upon his refusing to comply with the Sense of the Synod, applied to the Pope. Part of their Complaints ran in the following Words.

“ *Item præter & ultra Extortionem Officialium, Concil. V. 3.*
 “ *& Apparitorum Archiepiscopi supra mentiona-* p. 656.
 “ *tas, sæpe contingit, quod Defunctorum Executo-*
 “ *res, pro Testamentorum Approbatione, ab ulti-*
 “ *mis Provinciæ Finibus redeundo, diu ibi stan-*
 “ *do, & Impensas graves, & quasi importabiles*
 “ *compulsi faciendò, Defunctorum Substantias consu-*
 “ *munt; in tantaque Distantia morantes dicti*
 “ *Executores, ut nulla fiat aut vix fieri valeat*
 “ *Provisio pro Executione hujusmodi Voluntatum,*
 “ *&c.*”

To this Complaint, it may not be improper to add an Observation or two.

F

First,

First, That had the Prerogative Court been so favourable to Executors, living in the remote Parts of the Province, as to excuse their personal Attendance, this Favour must have been purchased, and would have increased the Expence of the Probate, and contributed to make further Waste of the Testator's Effects.

Secondly, The Legatary and Creditor are subject to the same Hardship as the Executor; that is, the Legacy is recoverable in the Court only, where the Will is proved; and what is a Legacy of five, ten, or twenty Pounds worth to a Legatee, living in *Wales* or *Cornwall*, if he must pursue it to Doctors Commons? The Creditor must also travel to Doctors Commons, to get Information of the Testator's Effects, before he can safely sue for his Debt.

But to proceed: The Year after this Complaint, *Henry VIII.* displeased with the Disorders occasioned by the long Continuance of this Controversy, in Synod, and at *Rome*, (for it had been litigating three Centuries) interposed, and brought Things to Temper, for a Time. His Letter upon this Occasion, to the Archbishops and Bishops, now extant amongst the Records at *Lincoln*, shews the Importance of the Controversy.

Antiq. Brit.

p. 508.

A. D. 1513.

Reg. Long-
land, Linc. Ep.

“ Right reverend Fadres in God, Right
“ trusty and right wel beloved We grete you
“ wele. Not doubting but that ye have in
“ your good Remembraunce, that where we
“ having Knowlege that ther was a Plee and
“ Proceffe commenced and hangyng in the
“ Court of *Rome*, bytwixt you on the oon Par-
“ ty, and the most reverend Fadre in God
“ Tharchbischopp of *Canturbury* on the other
“ Partie, for the Jurisdiction, Powere, and
“ Auctorite that he pretendeth to have in cer-
“ tayn

“ tayne Cases, to and for the Approbation of
 “ Testaments within your Diocises, not oonly
 “ to your and his manyfold Inquietations,
 “ Costes and Troubles; but also in a great
 “ Party, to the manifest Division and Dissensi-
 “ on of the universal Church of this our Royme,
 “ for so moche as the said Mater concerneth and
 “ towcheth the same.”

Then follows his Direction, as to the Arch-
 bishop's Claim, and the Letter concludes,

“ This our Commaundement and Ordi-
 “ nance to endur oonly by the Space of thre
 “ Yerys, next commyng after the Date of
 “ theis our Letters. And if during the same
 “ Tyme, ther shall fortune any Doubte or Dif-
 “ ficultye to rise bytwixt you and the said most
 “ reverend Fadre in God, in of or upon any
 “ Mater, Woord or Sentence, conteyned in
 “ our said Ordinaunces, or any Part of the
 “ same, we wol that the Interpretation and
 “ Construcion thereof, be referred oonly to us,
 “ and such of our Counseyll, as we heretofore
 “ deputed to be Arbitratours.”

But this Calm lasted no longer than 1518,
 when *Wolsey* being constituted Legate *e Latere*,
 had a Pretence from the Rules of the Canon
 Law, as well as from Practice, to claim Pow-
 ers paramount to *Warham's* standing Authority
 as *Legatus natus*. Thorn. c.
1665. Decret.
Greg. L. 1.
T. 3. 689.

It was well known, that *William*, Archbishop
 of *Canterbury* in 1125, gave place to Legate
John de Crema, both in the metropolitical
 Church, and in a general Synod. That *Henry*
 Bishop of *Winchester*, as Legate, assembled
 Synods within the Province of *Canterbury*, and
 called Archbishop *Theobald* thither, in 1143.
 That the Delegate *Icherius*, about the Year
 1329, summoned *Simon Mepham* before him, Gerv. Doro-
bern. c. 1663.
Thorn. c.
1453.
Ib. c. 2041.

when he was Archbishop, and *Legatus natus*. And that Archbishop *Courtney* was suspended from his Office of *Legatus natus*, about 1427.

But these Advantages were not an Over-balance for the national Prejudice in Favour of the Power of the *Legatus natus*, to which Men had long been accustomed. His Incroachments were an old Burthen, and become familiar; Length of Sufferance had given them such a Kind of Establishment, as other papal Incroachments had acquired against the Statutes of Provisors; which, tho' reinforced by *Edward III.* and *Henry IV.*, were declared by the Judges, in the latter Part of the Reigns of both these Princes, to be grown out of Use; that is, not intended to be executed to restrain the ordinary Usurpations of the Pope, but to discourage his further Advances.

Therefore, tho' each Species of Legateship was equally repugnant to the Laws of the Land, abstractedly considered, yet the new Incumbrance was the more unpopular; and *Warham's* Legatine Character, which was inferior to *Wolsey's*, according to the Rules of pontifical Heraldry, had the Benefit of a greater Measure of Connivance; and by that the Prerogative Court was set upon the Level with the other new Tribunal.

The Balance standing thus, between the two Offices, the Legates were both disposed to hold up their Pretensions respectively, and put in their Claims to the Cognisance of testamentary Matters, which the Suffragan Bishops maintained to belong to neither of them. Thus the Nation was disquieted with another Controversy, and the Hardships of the Subject, suffering between contested Jurisdictions, revived those Complaints to the House of Commons, about the

the Difficulties attending the Probate of Wills, which appear upon the Rolls of Parliament, from the Beginning of the Reign of *Edward III.* to the twenty-second of *Henry VIII.*

Cotton's Records, Herbert and Hall.

And it is a Matter of great Astonishment, that a brave and free People, always jealous of the Progress of royal Prerogatives, and not to be won by Artifice or compelled by Force to subject their Estates to the minutest Tribute, should submit, not only to the Pope's Innovation, on the settled Order of Judicature about Matters of Property, by the Intrusion of his Legates within the episcopal Precinct; but to great Exactions and Embezzlements, to tedious Journeys, and an expensive Attendance on distant Courts; and heretofore to a Violation of the Wills of the Dead, and Disinheritance of the Living, in Consequence of it.

To whatever Cause their long Acquiescence is imputed, whether to Superstition, or the Difficulty of obtaining Redress; by neither is the Injustice of the Court of *Rome* to be extenuated.

III. But how much easier was it to bear this Infringement upon Property, than upon the Peace and Honour of Families, by the Confusion of contradictory Canons — Canons creating many fictitious Degrees of Consanguinity, Affinity, or spiritual Cognation, to furnish Pretences for the Dissolution of a Marriage, as often as Change of Fancy, lucrative Motives, or conjugal Satiety called for the pious Aid of a separating Hand; and yet making Matrimony a Sacrament, to prevent a possibility of Dissolution otherwise than by papal Authority.

The Key therefore to the contradictory Provisions about Marriage, was, that the Court of *Rome* was desirous to have the Scales of domestic

meftic Peace in the Pope's Hand; that the Legitimacy of Children, and the Succeffion of Families fhould depend upon his Favour; that his Holinefs might feparate, whom no Man ought to put afunder, or perpetuate Conjunctions, which Reason and Religion forbid.

Contracts of Marriage, with all its Incidents, were long confidered as Rights of a fecular Concern; and, in the tenth Century, the Laws of the Empire allowed the Validity of Marriages, which were made without Sacerdotal Benediction, or the Intervention of the Offices of the Church. But in the twelfth Century, *Peter Lombard* difcovered the Inftitution of feven Sacraments in the myftical Expreflion of "the feven Spirits of God;" which he underftood as an Affurance of the feven-fold Operation of the Spirit in *Baptifm, the Supper of the Lord, Confirmation, Penance, Orders, Matrimony, and Extreme Unction*; and the Church of *Rome* foon countenanced his Doctrine, which brought Marriage, that was originally a Branch of civil Jurifdiction, under fpiritual Cognizance.

For it fufficed, that the Doctrine of *Peter Lombard* had an Air of Piety; a Facility of Divorce, and Frequency of Intermixtures amongft Members of the fame Families, though not within the Levitical Numeration, are each of them accompanied with fome Inconveniences; yet fuitable Regulations of this Matter would not avail to make a Sacrament of Matrimony.

In Truth, this Doctrine was as difficult to believe as to practice; and *Vice verfa*. For few thinking Men were born with a Capacity to believe in the Sacrament of Matrimony; and fewer were bleffed with a benignity of Temper, to make them religiously affectionate to an unfaithful Wife. From whence it came to pafs, that

that those who could not rise up to this high pitch of Persuasion about conjugal Obligations, commanded by the Church of *Rome*, fell into the contrary Extreme; and taught, that the Consent of a willing Couple, without the Formality of sacerdotal Benediction, made a lawful Marriage.

This was the Doctrine preached by the *Albigenses*, in the Territory of the Count of *Thoulouse*, and * propagated here, about the Year 1175.

† The *Lollards* afterwards declaimed against Celibacy, the Use of the seven Sacraments, and laid it down for sound Doctrine, “ That if a Man and Woman come together, with an Intention to live in Wedlock; this Intention is sufficient, without passing through the Forms of the Church; and that more People cohabited in this Way, than the World were aware.”

To prevent therefore the Progress of private Contracts, the Publication of Banns was instituted in the beginning of the thirteenth Century, and also various Inventions to legitimate the Issue of concubinary Parents. But in the Diocese of *Lincoln*, the Art of Legitimation had not arrived to any great Refinements; for the Ceremony was, that the * Parents, with the spurious Issue between them, had a Cloak or Coverlid cast over them, whilst the Priest was performing the Mass, or Office of Matrimony; and as soon as that was ended, the fruitful Mother was delivered of a lusty Infant under Coverture, and in Matrimony.

As to Banns, it was soon found they were not an adequate Remedy, and there was a Necessity to relax the Canons which required their

*Chron. Gerv. c. 1441.

Hoved. c. 317, 318, 19, 20, & M. Paris.

† Concil. v. 3. p. 209, 221.

* Nati ante Matrimonium consueverunt poni sub Pallio, super Parentes eorum extento, in solemnizatione Matrimonii, in signum legitimisationis. Epist. Grosthead Linc. Ep. Brown's Fascic. p. 230.

Publication. For the Lover was sometimes too passionate to wait the slow Pace of Banns; sometimes it was not convenient the Date of a Marriage should be known; and it might often be hazardous to have the Design of a Marriage previously made public; as, in an Age and Country of free Access to the Ladies, Men of Gallantry are apt to mistake the Decencies of female Civility, for a Testimony of their Compliance and Consent, and might thereupon proceed to forbid the Banns. Sometimes an elderly Batchelor, or ailing Widower was caught with an unequal or untimely Flame, and were unwilling to expose their Wisdom and Years to the previous Conversation of a petulant Parrish.

These, and other Reasons discovered the Necessity of vesting the Ordinary of the Place with a Power to grant Dispensation with Banns; but Time soon brought to Light new Inconveniences in this new Invention of Marriage Licenses.

For the Ordinary of the Diocese had not been long in the regular Exercise of this Power, before several * Orders, privileged by the Pope, laid claim to a Right

* Quoniam in diversis partibus hujus Regni tam Milites & alii, qui sunt de Religione Crucis-signatorum, Hospitalis sancti Johannis Hierosolymitani in Capellis suis vocatis, [Lawless Churches and Chapells] quam illi in Turri London, & alii complures, alibi in Ecclesiis seu Capellis admittunt alienos parochianos, ad clandestinorum & illicitorum Conjugiorum Solemnizationem, etiam Bannis non editis, & aliorum Perceptionem Sacramentorum & Sacramentalium, in Ecclesiæ scandalum, & Animarum multarum manifestissimum periculum; prohibemus itaque nequis deinceps in Ecclesiis seu Capellis ante dictis, vel alijs exemptis vel non exemptis, alterius parochiæ parochianum, nisi in Casibus a Jure permissis, ad Solemnizationem Matrimonii, sive Bannis editis sive non editis, vel aliorum Sacramentorum Perceptionem sine Licentia Ordinarii admittat, seu eorum aliquod administret, sub pœna Excommunicationis, quam contravenientes atque eorum Factores, nec non omnes, qui Matrimonium in aliqua hujusmodi Capella vel Ecclesia, absque Licentia Dicesani, solemnizari procuraverint. Concil. V. 3. p. 724.

Right of granting them; and frequent Complaints appear upon the Books of Convocation against the clandestine Marriages of unknown Persons; who leaving their own Neighbourhood, went † to populous Cities to procure Marriages, which could not be obtained in Places where they were known.

The Vicar-General of *Canterbury* likewise claims this Right in Virtue of the Archbishops concurrent Power thro' the Province. But if the Pope had been pleased to leave it, where it was *first placed in the Hands of the Ordinary*, who is presumed to have full Information of the Families within his Diocese, there would have been fewer * Occasions of Complaint about clandestine Marriages.

But the Injury which Morality as well as social Life hath received, by innovating the Sacrament of Marriage, and Privileges to grant matrimonial Licenses, may be discerned more clearly from a Review of the Customs of our *Saxon* Ancestors in this respect.

monia inter ipsos de Facto solemnizari p. 707.

* To prevent clandestine Marriages, it was provided, that " Nullus Laicus solutum se prætendens, & in Diocesim Eliensem ab alio quocunque Loco sive Diœcesi, se transferens, ad contrahendum Matrimonium intra hanc Diocesim Eliensem per unum Annum integrum post adventum suum hujusmodi, ullo Modo admittatur. Et si de Facto contraxerit, illud tamen in Facie Ecclesiæ per aliquem Curatum dictæ Diœceseos minime celebretur, nisi Literas testimoniales validas & efficaces a Loci Ordinario, ubi antea moram fecit, Curato suo, ubi Matrimonium prædictum solemnizatum haberi proposuerit vel intenderit, realiter exhibuerit. Concil. V. 3. p. 712.

† Cum personæ variæ, quæ propter Consanguinitatem, vel Affinitatem, seu alia Impedimenta legitima matrimonialiter ad invicem de Jure nequeant copulari, multoties desiderant id de Facto, ut sub Matrimonii contesti Velamine possint Carnis Operam perniciosam & illicitam liberius adimplere; qui sua scientes Impedimenta nota fore in Parochiis, in quibus degent, quia parochiales presbyteros propter hujusmodi Impedimenta notoria, seu Famam Impedimenti vehementem, ad solemnizandum Matrimonium inter tales paratos non inveniunt, ad Loca remota, & præcipue ad Civitates, & Municipia populosa, in quibus præmissorum non habetur Notitia, transferunt se ad Tempus; & illuc quandoque, Bannis publice non editis, nec Horis nec Temporibus opportunis, aliquoties in Ecclesiis, aliquando in Capellis seu Oratoriis Matrimonium procurant, Concil. V. 2.

Amongst

* Petit's Peni-
tential of The-
odore. Art. 10.

Amongst them * Divorce was allowed in Cases of Adultery or Desertion; and yet all prudent Care was taken to prevent an Occasion of Divorce, by the Sobriety of their Rules in Respect to Espousals and Marriage. For a Formulary of Espousals and Marriage was established under the Saxon Government, wherein

Spelman, v. 1.
p. 425.

Art. I. "If a Man will marry a Maid or Woman, and she and her Friends so please, then it is fit that the Bridegroom, according to God's Law, and to common Decency, do first covenant with him that acts for her, that he desires to have her on Condition to retain her according to the divine Right, as a Man ought to retain his Wife; and let his Friend give Caution for that."

Art. II. "Let him finish all with a Pledge of his Promise, and let his Friend be Surety for it."

Art. III. "The Mass-Priest shall be at the Marriage, who shall, according to Right, celebrate their coming together with God's Blessing, with all Solemnity."

Excerpt. Ecg-
bright.

Neither ought another Circumstance of their Sobriety to be forgot; which is, that the married Pair always abstained one Night at least from the bridal Bed; a Practice very different from that which is authorised by Faculty Licences.

Is it not then an Insult upon the common Sense of Mankind, that the Court of *Rome* should pretend to advance true Religion, by substituting in the Place of these Rules of Sobriety, the Imposture of a Sacrament? That the number of Impediments to Marriage should be increased, for no other purpose than to multiply occasions of Resort to the pontifical Chair, which reserved to itself the Power of dispensing?

Whereas

Whereas anciently Determinations of all the Incidents to Marriage had frequently been made in the *English Church*, independent of, and without the least Regard to the See of *Rome*.

By the Laws of *Alfred*, the Crown, or Bishop of the Diocese, was to dispense with the Vows of Nuns. Spelman. v. 1. P. 354. Ann. 877.

By King *Eadmunds*, a Formulary of Espousals and Marriage was established. Ibid. p. 425. Ann. 946.

In the national Council at *Winchester*, was debated the lawfulness of the Marriage of the Clergy. Ib. p. 492. Ann. 975.

And about five Years before, Archbishop *Dunstan*, who excommunicated an incestuous Earl, refused to comply with an Order from the Pope to absolve him. Baron. Annal. ad Ann. 970. & Vita Dunst. per Eadmer.

In the Reign of *William* the Conqueror, a national Council decided the Question, concerning the Obligation of Vows of Women, who had taken the Habit out of Fear of the *Norman Invasion*. Spelm. v. 2. P. 7.

The same Question was again discussed in a Synod, in the Reign of *Henry I.* in Respect to the Vows of the Empress *Maud*, which she made upon the same Occasion. Ib. Ann. 1100.

And to *Henry I.* was referred by the Synod of *London*, the Consideration of the Marriage of the Clergy, who made no Scruple to dispense with their retaining their Wives. Hunt. Hist. l. 7. f. 220. Hoved. c. 274. per Gal. M. Paris.

To recapitulate then the Consequences of * papal Usurpation upon civil and ecclesiastical Jurisdiction, in respect to Marriage. — They are as follows. Great Contempt of the Celebration of the Office of Matrimony in the Church, and of the married State; lewd and libertine Practices, collusive Divorces, and Frequency of clandestine Marriages, by a misuse of Licences, or Dispensations with Banns, which were * And yet by the catholic Historians great Stress is laid upon this Point, that the Power of dispensing as to Marriage, was solely in the Cathol. Chair.

were intended as a Remedy against unsolemn or private Contracts.

IV. As to Appeals, the Origin of their Abuse may be easily traced out. It is well known that *Constantine*, when he first conferred Jurisdiction on the Church, appointed that the Decision of the Bishop should be final; lest Frequency of Appeals should impair the Reputation of his Judgment or Integrity, and protract Causes concerning Religion and the Clergy, into an inconvenient Length. But our Plan of Government, which was cantoned out into many subordinate Jurisdictions, made the Right of Appeal a fundamental Part of our Constitution, in order to preserve the Communication between the Head and Members, and give the Subject an Opportunity of Access to the Justice and Protection of the Crown.

Wilkin's Sax.
Laws.

Cod. 7.

For this Provision was made in the *Saxon* Laws, but this Remedy against the Iniquity or Ignorance of inferior Judicatures, came to be so unduly administred, and unnecessarily obtruded, that the Vitals of Justice, like a Patient deceived, were consumed to gratify the Doctor's Avarice. The *Saxon* Law, (as well as the Civil, though in the Time of *Arcadius*, *Honorius*, and *Theodosius*, Successors of *Constantine*, it was found adviseable to allow a Review of the Judgment of the Bishops;) was a stranger to Appeals from artificial Grievances, that is, from Suggestions of Mistakes about the Forms and Modes of Practice in the preliminary Steps of a Cause; neither were those Suggestions attended to here, till Legates were pleased to think it was for the Interest of Religion, to have the minutest Errors of inferior Ordinaries corrected.

The earliest Account of this Practice is in King *Stephen's* Reign, when *Henry* Bishop of *Winchester*

Winchester being Legate, we are told, "*Multa Antiq. Brit. 128.*
 " *frivolarum Appellationum Genera ab Henrico*
 " *Papæ Legato suscitata fuere. Quamdiu enim*
 " *tam elati & insuperabilis Animi Vir papali Le-*
 " *gatione fungebatur, infinitæ ac inusitatæ Ap-*
 " *pellationes undique ad eum adferebantur.*"

As Appeals from definitive Sentences had always been admitted, the Complaint about "*inusitatæ Appellationes*," seems to charge the Legate with the Introduction of Appeals from Interlocutory Decrees, as they only were unaccustomed. And this Observation is confirmed by the Record of an Appeal to the Court of this Legate, from an Interlocutory Decree of the Consistory of *Salisbury*, in a Cause there depending between *Mabile de Sacvil*, and *Richard de Anestia*, preserved in a Letter writ by *John Bishop of Salisbury*, in 1161, to Pope *Alexander*. *Rymer's Fœd. v. 1. p. 16.*

For this may properly be considered as the leading Precedent to the Court of Arches, when the Legatine Power came afterwards to be cumulated upon the ordinary Metropolitocal Authority, if, before that Coalition, no Instance can be produced of an Appeal to the See of *Canterbury*, from an Interlocutory Decree. Moreover, it is an Argument of the unsuitableness of this Practice with the Discipline of a national Church, so far as the Experience of other Nations is Matter of Instruction, that Appeals of this Kind were not admitted in the ordinary Consistories of *France*, nor in the Imperial Chamber, which, next to the *Roman* Chancery, is the greatest Audience in Christendom. Neither ought it to be forgot, that *Henry VIII's* Resentment of the Injustice of the Court of *Rome*, in admitting an Appeal from an interlocutory order in the Process of Divorce, contributed

Duck. de Jure Civili, p. 164, 168, 238, 9, & passim.

buted not a little to push forward the Separation from *Rome*. At the same Time, it is but Justice to remember, that it prevailed against the repeated Complaints of the provincial Bishops and Clergy, remonstrating in Synods against the many Inconveniences of this Innovation, from 1250 to 1512, as may be seen in the Appendix of the Letter to the Reverend Dr. *Lisle*.

* The Attempts of the Kings of France to defeat by Appeals inferior Jurisdictions, resembling our Court Barons, (from whence Vassalage and various Degrees of Dependence upon the Lord of the Fief were derived, which served as a Barrier against the arbitrary Designs of their Princes) were frequently complained of in their Parliaments, as Subversive of the Constitution, and injurious to the Original Right of Fiefs. Boulanvillier's Hist. of the Parliament of France.

Nothing more therefore is requisite to be observed upon this Head, than that Appeals from interlocutory Decrees, which delay the Progress, and increase the Expence of all Causes litigated before an Ecclesiastical Judge, must needs have been prejudicial to the State of Vicarial and other small Tythes; because if the Expence of Time and Money in recovering a Right, may be likely to exceed the Value of the *Sors principalis*, or Matter demanded, cautious Men will be backward to demand it in the Consistory, where it is set up as it were to Auction, and is not to be purchased but at a Price above its real Value. From Non-claims of *Easter-Offerings*, &c. upon such prudential Apprehensions, came injurious Prescriptions.

The like Discouragement by Appeals must have impeded Discipline, and the Correction of Vice, unless Men were supposed to be more offended with Trespasses against Virtue and good Manners, than with Infringements upon their private Property.

Lastly, all the Advantages to the Subject, proposed in cantoning out the Administration of Justice into so many * Franchises near at hand, are at once defeated by the Legerdemain of interlocutory Appeals.

Neither were the Nurseries of Learning much less injured by this Practice, than Diocesan Consistories.

Consistories. The *Optio Fori*, or Liberty of Students to have their Controversies determined in any Court, where they hoped for the readiest Dispatch, and the shortest Avocation from their Studies, was the first Privilege granted to the Universities of Germany, by *Frederic Barbarosa*, upon their Incorporation, about the Year 1158. Hermann. Conring. de Antiq. Acad. Wood. 93, 4, 5, 6, 106, 109, 126. Fuller.

But the Dean of the Arches, whether from an Aversion to the *Belle Lettres*, peculiar to his Occupation, or through an Inability to resist a Temptation to inroad, contracted from an habitual Indulgence of that Passion, was pleased to disturb the Repose of the Muses at *Oxford* and *Cambridge*, about the middle of the fourteenth Century, by Appeals and Inhibitions; and in the fifteenth to interpose in their conferring Degrees, and deciding Competitions about Academical Pre-eminences. Wood. 181, 2, 192, 4. Fuller 52.

In this the Hand of the Legate is discernable. Harpsfield. p. 537. For in that Character, the Archbishop had the Disposition of Degrees about 1383, if not earlier; and the Dean of the Arches, as his Sub-Legate (for in what other Quality he could intermeddle in Degrees is not to be devised) might hope by an Incouragement of Appeals, and his Supervision of the Judgment of the University upon Literary Merit, to advance the great Designs which were to be carried on at *Lambeth*, by his Grace's Collation of Degrees there.

The Reputation of Degrees by Favour was sunk very low; the Pope being so liberal of them,

L'Enfant.

Rymer. Fœd.

them, as to Commission, not only his Legates, but Nuncios, and Generals of Orders to grant them. Therefore *Richard II.* was prevailed upon, by a Representation from our two Universities, to order, that such untrained Graduates should not be admitted to the same Rank and Privileges with Doctors in Divinity, who had acquired that Distinction by duly passing thro' the Forms observed in our Universities.

This Stroke upon the *Licentia doctorandi*, or delegated Power of creating Doctors out of the ordinary Course, was not to be countervailed, but by imbarassing the Progress to Academical Degrees, with Inhibitions and Appeals; and as this Scheme had wonderfully succeeded in transferring almost the whole Care of the Church, from the Suffragan Bishops to their Primate; so the Dean of the Arches might hope, that the same prudent Measures at *Cambridge* and *Oxford*, would improve the Institution of Schools and Scholars, by bringing them under the Protection and Patronage of the See of *Canterbury*.

But there was another Trick practised in the Court of Arches, *viz.* to convert the allowed Right of receiving Appeals from definitive Sentences in a due Course of Law, into a Snare upon the Freedom and Independence of the national Church, which was, by admitting Tuitory Appeals; that is, Appeals purporting the Delation of the Cause to *Rome*, and praying the Protection of the Court of Arches, against the Ignorance and Injustice of the inferior Ordinary, till his Holiness's Pleasure upon the Complaint was intimated.

William I. and *II.* and *Henry I.* had expressed a just Resentment against Avocation of Causes to *Rome*; and in King *Stephen's* embroiled Reign, whilst

whilst it was adviseable for him to forbear, to make head against the Pope, there was discovered in the Nation much Aversion to the Thoughts of being drawn to *Rome*, for the Decision of litigated Rights.

The Court of *Rome* therefore, to effect by serpentine Windings, what would have been more difficultly accomplished in a directer Path, invented the * Expedient of Tuitory Appeals to the Court of Arches; which, suspending the Process of the inferior Ordinary, remitted the Cause to *Rome*, in a legal Way, under the Colour of metropolitical Authority; by the same Authority as would ultimately have determined the Controversy, had it not been referred from thence to the pontifical Chair.

Thus as Princes sometimes lose by bungling Treaties, what their Virtue could maintain by Arms; so by the See of *Canterbury*, when corrupted by the Offer of the Legateship, a Back-door was opened for *Rome* to enter at by Appeals, and triumph over the Supremacy of the Crown, and the ancient Freedom and Independence of this Church.

In short, the Court of Arches persisted, notwithstanding the continual Complaints in Synod against it, to give so much Interruption to the Exercise of Discipline by Appeals; that, if the Government of the Church had been free from every other Exception, this * alone would have defeated all the Ends for which Jurisdiction was committed to it.

V. In this State of Things, to silence and suppress Complaints against an oppressive Government, and discourage all Advances towards a Reformation, it was deemed expedient to practise the same Influence and Arts of Legatine Presidency on our Synods; in order to prevent,

G

anticipate,

* Antiq. Brit. p. 28.

Complaint of the provincial Bishops against Tuitory Appeals. Ann.

1282.

Concil. v. 2.

p. 75, 6.

Regulations about Tuitory Appeals. An.

1295, 1303,

1342.

Ibid. p. 209.

274, 5; 683,

4; 5.

* Gascoigne, as cited by Wood.

anticipate, and frustrate all synodical Motions, as had been used by the Agents of *Rome*, to defeat the Endeavours of General Councils.

Under the *Saxon* Government, Religion received a parliamentary Establishment; or, in other Words, Ecclesiastical Affairs were chiefly directed by national or mix'd Councils, which are the Seat of Liberty.

But besides these mix'd Councils, there were Instances of other Assemblies, which met to treat merely of Ecclesiastical Concerns; and though it may be difficult to define the Constitution of those Synods, especially before the Dissolution of the Heptarchy, and Settlement of the Primacy in the See of *Canterbury*, in the beginning of the ninth Century; yet as their Debates and Resolutions turned wholly upon Ecclesiastical Matters, and passed under Ecclesiastical Direction, they may properly be distinguished from other Councils, where Consideration was chiefly had of Matters of a mixed Nature.

A further Doubt about their Constitution arises from the Persons attending on them; for the King, Nobles, and all others who ordinarily frequented *Saxon* Parliaments, appear to have been present in Synods with the Clergy.

But the Ground of this Doubt is of itself an Evidence, that whether these Assemblies were mix'd or pure Synods, their Debates were Free, being carried on under the View and Inspection, with the Concurrence and Approbation of the Nation; not as upon Matters appropriated to a particular Profession or Occupation; but as upon public and national Interests, in which every Man had a Right to intervene, and see they were duly administered.

Nothing

Nothing can then more effectually discover the Malignity of Popery, than the Substitution of a legatine Conclave in the Place of this rational and free System of Government, where the Clergy were allowed to consult upon the State of the Church; and if not finally to establish by their own Authority what was needful; yet to prepare, advise, and recommend to the national Legislature, what Establishments would advance the Interests of Religion.

Yet how disadvantageous soever this Exchange was, it took effect after the Separation of the civil and ecclesiastical Jurisdictions was compleated, and the Crown interrupted less and less in the external Regimen of the Church; for then Legatine Influence broke in upon the Liberties of the Church; and in Time left to the Synod scarce any Remnant of Freedom, except in the Forms of * Instruction, which the diocesan Clergy persisted to give to their Proctors, to represent to the Fathers, either the general State of Religion, or some particular Grievances in their own District.

But no sooner had the See of *Canterbury* matriculated Legatine Innovations, and become thereby Interested in the 'administration of Jurisdiction through the Province, than the Synod heard, one Year after another, nay one Century after another, Complaints of inveterate Grievances, and repeated Representations of the increase of Disorders, for want of timely Regard to the most urgent Remonstrances; yet this Importunity was without Effect, as

* This Practice prevailed likewise in civil Conventions. *Grotius* relates in his *Belgic History*, p. 4. that in the ancient Assemblies of *Brabant*, *Flanders*, &c. "Eo Missi fortia sepe pro Republica, & quod addebat Audaciam, ut Mandata loquebantur," and upon the Register Books of the Dean and Chapter of *Lincoln*, are their Instructions for the Parliament at *Westminster* in 1325. *Cook* also in his fourth Institute, p. 14, 32. intimates, that it is the Duty of the Representative to consult his Constituents in unforeseen Emergencies.

hath already appeared from the many fruitless Motions in Synod, with Respect to the Regulation of Abuses in Courts, Visitations, clandestine Marriages, Legatine Prerogatives, Appeals, &c.

Henry VIII. could not be a Stranger to this unhappy Disposition in the Synod; for in a free State, it is not easy to command a silent Acquiescence under Insults of public Justice; accordingly in the beginning of his Reign, such general Observations had passed on this Trespass, as gave Incouragement to Dean *Colet*, in his *Con-*
 A. D. 1511. *cio ad Clerum*, to reprove the Synod for the unprofitableness of their frequent Meetings, and making no Use of those Opportunities, to reform many Corruptions in Discipline, which he enumerated from the Pulpit; and then con-

Life of Dean Colet concluded, "Suffre nat, Fathers, this your so great
 "a Gathering to departe in vayne. Suffre nat
 "this your Congregation to slyppe for naught.
 "Truly ye are gathered often Tymes together
 " (but by youre Favoure to speke the Trouth)
 "yet I nat see what Frute cometh of youre As-
 "sembling; namely, to the Church."

A. D. 1514. In 1514, *John Taylor* pressed this Argument further, in a Speech to Archbishop *Warham*, on occasion of his being presented, as Prolocutor of the lower House. It seems many Questions about the Exercise of Jurisdiction, which had been litigating in Synod for three Centuries, were then pending undecided; and the Bishops, who had obtained no Relief in such a length of Prosecution, still persisted to solicit in Synod a Restitution of their Rights. Hereupon, Mr. Prolocutor *Taylor*, in order to push Matters to a Conclusion, pointed out to his Grace, what Prejudice had befallen the Church, what Vexation the Subject, through a failure in the Synod
 to

to perform its destined Office, which was to put an End to all Controversies about Religion. His Sentiments and Words will bear to be set out at large.

“ *Oratio habita in Convocatione Cleri, per Jo. Taylor, Juris Pontificii Doctorem, 26 Junii, 1514.*

“ MEMORES, quæso, sint memores Paternitates vestræ reverendissimæ, hæc Concilia, hæc Convocationes propter Controversiarum in Causis Ecclesiasticis Dissolutiones, Morumque reformationum Correctionem primo inventa fuisse, & ob hæc celebrari cogique solere. Ante omnia igitur dissolvant deponantque Paternitates vestræ (enixe oramus) Lites et Controversias ingratas, totius Ecclesiæ Anglicanæ statui damnosas, perditissimo perniciosissimoque subditorum Exemplo inchoatas, quas inter se invicem diu gessere, (vestræ enim Contentiones sine non paucis subditorum Molestiis, Damnis, et Perturbationibus exerceri non possunt;) memores Apostoli dicentis, Cum sit inter vos Zelus et Contentio, nonne carnales estis, et secundum Hominem ambulatis? Actiones enim vestræ inferioribus sunt Instructiones, agendi ac vivendi Normæ; sicut Integritas vestra salus et incolumitas est subditorum, ita infirmo aut languente Capite vestro, Membra reliqua debilitari quis ignorat? Dumque Lites inter Paternitates vestras (faciente Malitia) protrahuntur, Patrimonia Christi, in meliores convertenda Usus, inutiliter exhauriuntur, et id sequitur, Quod non capit Christus, capit Fiscus.”

The next Inquiry is, from whence this Inattention in the Synod to Complaints, this Delay of Justice, this Aversion to Regulations? Not from the Bishops, who were almost exauctorated, and scarce retained any Thing, but the Shadow

of Authority ; not from the Laity, who were deprived of their most valuable Privilege, viz. the Administration of speedy Justice in their Vicinage, intangled in endless Suits, fatigued with long Attendance on the Prerogative or Court of Arches, and exhausted with intolerable Expences ; not from the inferior Clergy, whose Portion it is to feel the Indignation of the People against the Defaults in Ecclesiastical Administrations ; and who, moreover, were the greatest Sufferers of all Men, for want of an easier Method of Recovery of their small Tythes and Oblations, ---- but from the over-ruling Power of the President of the Synod, who gave no Ear to Propositions tending to reform Ecclesiastical Courts, and their Interferings one with another.

Against all Inroachments upon Ecclesiastical Jurisdiction from the temporal Courts, a legal Remedy was provided.

Frynne, v. 2, 3. The Clergy in Synod, after long Interferings between the Spirituality and Temporality, thro' the Reigns of *Henry II. King John, and Henry III.* wherein the Ecclesiastical Judge had often been indicted, attached, fined, and sometimes imprisoned for Contempt of the Crown ; the secular Judge in return, frequently interdicted and excommunicated, * drew up in the Reigns of *Edward I. II. and III.* Representations to the King and Parliament, of the Inconveniences attending this Alteration ; and thereby obtained the Acts called *Circumspecte agatis*, of Consultations, and *Articuli Cleri* for the Clergy ; which Acts are the Settlement and Boundaries of Ecclesiastical Jurisdiction, so far as it stands distinguished from the Temporal.

To these Representations the President of the Synod readily adhered. And,

In

* Concil. v. 2.
p. 19, 200,
236, 314. v. 3.
p. 23, 38, 9.
A. D. 1285.
1296.
1315.
1340.
1344.
1350.

In Consequence of this Partition of Jurisdiction, the Matters assigned to spiritual Cognition, received their ultimate Determination there; the Civil Courts interposing no further than to preserve the Rights of the Crown within these Limits, and leaving the Course of Ecclesiastical Proceedings, their judiciary Order and forensic Forms, and the Intercourses between different Ordinaries, to their own Arbitration.

This Pacification, how desireable soever in some Respects, proved very unfortunate in others, by Reason of the Concurrence of Jurisdiction claimed by the Archbishop through the Province, and the Dominion, which as President of the Synod, he assumed over all synodical Debates, as by these means all Regulations, and more especially the Rights of the inferior Ordinary were entirely left to the Mercy of a Superior, whose Exaltation was heightened by the Depression of his Suffragan; and since secular Courts intermeddled not in ecclesiastical Concerns, whence could the Suffragan hope for Protection from Legatine Innovations? Not in the Court of *Rome*, the Patron of Legates; nor in the Synod, which had wont to rectify whatever was amiss, because the Archbishop, as President of the Synod, had intrenched himself in the Privilege of proroguing and dissolving the Synod, as he pleased, or of dictating the Matter upon which alone the Synod was to deliberate, and form Resolutions, and therefore could as easily rebate the Importunity of the Province for Justice, as the Pope eluded the united Demands of the Western Empire for Reformations in General Councils.

Synod. Angli.
p. 85, 94, 95,
223.

* K. Ofwi.
A. D. 664.
K. Egfride,
685.
K. Æthelbald.
742.
K. Kenulph.
816.
K. William I.
K. William II.
Specim. v. 2.

Our Synods were anciently convened by Order or Allowance of the Crown; the * King was often present at their Debates, and their Acts were established under his Inspection, nay sometimes his express Consent was deemed necessary: But after *John de Crema* in 1125, *Albericus* of *Ostia* in 1138, *Henry* Bishop of *Winchester* in 1142, *Johannes Ferentinus* in 1206, *Otho* in 1226 and 1237, had as Legates called Synods without the Intervention of the Crown, it was accounted a Matter of Right in the Legate to have the Direction of Synods, and the Archbishop of *Canterbury*, as standing Legate, and in Virtue of his Pall, succeeded to it, convening Synods by his own Authority, and either arbitrarily passing over Matters therein suggested, about the Exercise of Jurisdiction, as unfit for their Inquiry and Debate, or postponing the Consideration of them by Prorogations at Pleasure, or rejecting the just Requests of the whole Body, by peremptory Dissolutions. But the Practice of Legates in General Councils, was no Standard for National Synods, because if an established Church hath it's Institution from the State, and is subject to legal Dispositions, and Appointments; the Synod, or Committee, to whose Consideration its Interests may be referred, ought not to determine arbitrarily, but to conduct their Debates and Resolutions about the Administration of a national Religion, agreeable to the Maxims of the civil Constitution; remembering, That primitive Councils were regulated in the Order and Method of their Consultations by Imperial Edicts.

Nevertheless the Rights of Metropolitan and Primate in the Synods of this Province, by national Usages or primitive Constitutions, fell into Disregard in the 13th Century, and more ex-

extensive Priviledges were derived from the Favour of the Pall, and his Legatine Character.

“ *Antequam * quis Pallium obtinuerit, non poterit convocare Episcopos ad Concilium.*” Roman Pontifical.

But the ill Effects of these arbitrary Powers, were soon discerned in the Conduct of Archbishop *Boniface*, (for the whole Province was thrown into Convulsions by him) and the King and the Barons in 1264, thought it adviseable to interpose, and obliged him to Covenant, that he would for the future consult his Brethren about the Affairs of his Province and Diocese, and be concluded by the Advice and Suffrage of the Majority, in whatever concerned the Welfare of the Church and State. A. D. 1264.
Pryn. v. 2. p. 998.

But this Obligation to comply with stated Rules of the Constitution, was held by those who came after him, inconsistent with the Priviledges of the Primacy; and *Peccham*, who succeeded to it in 1279, not only resumed the Practice of issuing Edicts, Ordinations, and Statutes, without synodical Concert, but evaded Complaints of the Bench against that, and several other Innovations, comprized in twenty one Articles. A. D. 1279.
Concil. v. 2.
p. 33, 48, 75,
106, 123, 128.

Yet about 1289, Archbishop *Winchelsea* advanced a Point more opposite to the Rights of the Crown, than these Practices were to the Priviledges of the Suffragan Bishops, namely, the Expedience of secreting synodical Debates, from the Observation or Privy of King *Edward*'s Servants. *Henry III.* though he forbore to interpose in Ecclesiastical Affairs, as his Predecessors had done, yet thought it adviseable to keep an Eye upon the Clergy, and have his *Commissioners present in their Synods. When *Pryn. v. 2. therefore Archbishop *Winchelsea* saw the Clerks p. 806. of *Edward I.* present in the Chapter-House of St.

Anglia Sacra.
v. 1. p. 524,
and Bishop
Wake's Hist.
of the Church
p. 255.
A. D. 1328.
Concil. v. 2.
p. 549.

St. Paul's, he order'd, That they should be forcibly thrust out, as Spies upon his Conduct, and then entered into private Deliberations with the Clergy, under the Tie of Secrecy.

After this Specimen of Legatine Insolence, it can be no surprize to find, that another Application made to Archbishop *Mepham*, in the Synod of 1328, by the Proctors for *Exeter*, pursuant to Instructions from the Clergy of the Diocese, to complain, "That the Impunity of Vice thro' Interruption of Ordinaries in the Exercise of Discipline by his Court of *Canterbury*, gave Occasion to a great Increase of Immorality," and supplicate his Grace to provide a proper Remedy for this Disorder by Advice of the Synod, was fruitless.

A. D. 1399.
Concil. v. 3.
p. 242.

But in the Synod of 1399, the Bishops and Clergy concurred in a Representation, which had no Effect upon Archbishop *Arundel*, shewing, "That Men were often called from the remotest Parts of the Province to *Doctor's Commons*, upon false and frivolous Pretences; that if in any Cause the Authority of that Court was brought into Question, the sworn Advocates and Proctors of the Court durst not give their Assistance therein.

"That Inhibitions were often issued in Causes of Instance, merely for the sake of preventing Judgment, and delaying Justice, and no sooner was one Inhibition revoked, than another was issued.

"That in Causes of Correction, wherein the Ordinary proceeds merely for the Amendment of a Criminal, and ought not upon any Account to be inhibited in his Process, the Criminal upon feigned Allegations obtains an Inhibition, to put a Stop to the Inquiry, whether the Suggestion be true or false,

“ false, whereby great Incouragement is given
 “ to Vice, as Experience teaches, &c.”
 “ These Grievances, which they at present,
 “ and for many Years had suffered from his
 “ Courts, they earnestly implored him to re-
 “ dress and amend.”

In the next Century, there is a compendious A. D. 1494,
 Account of intolerable Hardships imposed by Concil. v. 3.
 Archbishop *Morton* in the Exercise of his Prero- P. 655.
 gative, but chief Stress is laid on this Circum-
 stance, that the Archbishop would make him-
 self the Judge, and lay down the Law, in Mat-
 ters which concerned the Bishops, Archdeacons,
 and every Subject thro’ the Province. *Aventine* Annal. Boior.
 records a Complaint of the same kind by the P. 349.
 Bishops of *Germany* and *France*, against Pope
Hildebrand in a great Council, viz. *Quod Testis,*
Judex, Accusator, Inimicus idem fuit.” For this,
Hildebrand was deposed. The Bishop of *Lon-*
don could not submit to this, and so appealed
 to *Rome*. In the mean time, the Populace
 made so many spiteful Observations on the ar-
 bitrary Conduct of the Archbishop, as moved
 the Compassion of his Holiness to send a Bull Antiq. Brit.
 of Excommunication against all wicked Persons, P. 300.
 who, pending this Suit, should talk too freely
 of his Grace.

But the Minutes of the Acts of the Synod of
 1511 and 1512 give a more discouraging Re-
 lation of the Difficulties attending Motions for
 Redress.

A Committee was appointed to inquire into
 the disorderly State of the Church, consisting of
 the Bishops of *Norwich* and *Rocheſter*, Dean of
St. Paul’s, Prior of *Canterbury*, and one Arch- Concil. V. 3.
 deacon : and they reported to the Archbishop P. 655.
 and Prelates in Synod, “ That the Admini-
 “ stration of Justice in civil Causes, and the
 “ Exercise

“ Exercise of Discipline for Reformation of
 “ Manners, were greatly obstructed by friv-
 “ olous Appeals, and an unwarrantable Emis-
 “ sion of Inhibitions thereupon, by the Arch-
 “ bishop and his Officers; that their Visitati-
 “ ons were burthenfome; that the Subject is
 “ frequently called from a great Distance,
 “ seven or eight Days Journey, or more, to
 “ attend in Cases not allowed by Law, and if
 “ they do not obey an undue Summons, are
 “ excommunicated: That Advocates, who
 “ have withdrawn from Doctors Commons,
 “ if they afterwards undertake the Defence of
 “ the Suffragan against the Claims of the Arch-
 “ bishop, are prosecuted for Perjury before the
 “ Official of the Archbishop, by which Course
 “ the Suffragans are destitute of Council:
 “ That Executors and Administrators are put
 “ to great Trouble and Expence about *bona no-*
 “ *tabilia*. And that by all these Ways of Ex-
 “ tortion and Vexation the Subject is greatly
 “ molested and injured: That private Appli-
 “ cations had often been made with all due Hu-
 “ mility to his Grace, by the provincial Bishops,
 “ to induce him to give Peace to the Church,
 “ not only for their Sake, but for the Ease
 “ and Quiet of the Subject; and not succeed-
 “ ing, they had pressed this upon him in Sy-
 “ nod to no Purpose: That then they renewed
 “ their Sollicitations to him, with fresh Offers
 “ of Accommodation, but could neither pre-
 “ vail by Motions in Synod, nor by friendly
 “ Suggestions.”

Thus, not only the legal Constitution of the
 national Church was unhinged, but the origi-
 nal Design of synodical Consultations defeated,
 by the Prerogatives of Legatine Precedency:
 For it was no more agreeable to the Practice of pri-

primitive Synods than to the Principles of a free State, that the Introduction as well as Issue of all synodical Motions about a national Religion, should depend upon the Pleasure of the President.

Synod. Angl.
P. 85, 94, 95.
223. e contra-
rio.

There is in Reason, as well as in Antiquity, a Foundation for a Claim of this Kind in the Crown. The first Christian Princes did mark out Matters for Councils, *some*, upon which the Fathers were to debate, and *others*, from which they were to abstain: And it was not only a Trespass upon the Supremacy, in the Pope and his Legates, to assume an Authority to point out to Synods what was to be the Subject of their Deliberations, but an Infringement of the Liberty of Conciliary Conventions, an Anticipation of the Benefits to be expected from a free Discussion, and a Trick to silence and stifle just Complaints, and prevent a fair Inquiry into the State of Religion.

VI. But the Archbishop had always in Readiness an Argument to persuade the Bishops into an Acquiescence under Legatine Incroachments, namely their Oath of Obedience to the Metropolitcal See. So that the Bishops had no other Alternate, but either to give way to increasing Demands, and surrender up the Rights of their Office; or stand charged with Perjury, and cut off from Christian Communion, by public Denunciation.

It seems, that the Archbishops were so vigilant in the Preservation of their Privileges, as to lay all Persons, who passed thro' their Hands, under a solemn Obligation to their See; not only the impartial Judges of the Courts of *Canterbury*, but the Advocates and Proctors were sworn to defend it: And there are Instances of the

Antiq. Brit.
p. 261.
Concil. V. 2.
p. 76. V. 3.
p. 656.

the Expulsion of Advocates for being Council in a Cause not favoured by that See.

A Practice resembling this had obtained in Germany, and appears in the eighty-fifth of the Articles of Complaint, from the Diet of *Nuremberg*.

Bingham's
Antiq.

But it is more extraordinary, that a complex Oath should be imposed by one Ecclesiastic upon another, whose common Privilege it once had been, to be less incumbered with Oaths than any other Order of Men; the World being not only willing to express a full Reliance upon their Probity, and the Integrity of their Word; but desirous they should continue free from all Anticipations, and at Liberty to pursue the Dictates of Honour and Conscience unrestrained.

Nevertheless, when Archbishops became powerful, and affected the State and Grandeur of Princes, it was thought more suitable to have feudatory Suffragans, doing Homage to the Metropolitcal See; accordingly an Oath in the following Form, was taken upon the Consecration of a Bishop, before the Separation from *Rome*.

“ I *John Longland*, Elect of the Church of
“ *Lincoln*, and now to be consecrated Bishop of
“ that Church, by you the most reverend Fa-
“ ther in Christ, *John* by the Grace of God,
“ Lord Archbishop of *Canterbury*, Primate of
“ all *England*, and Legate of the Holy Apo-
“ stolic See, do profess and promise, that I
“ will pay due and canonical Obedience, Re-
“ verence, and Subjection in all things to you,
“ and to your Successors, Archbishops of *Can-*
“ *terbury*, who shall be canonically instituted
“ into the said Metropolitcal Church, accord-
“ ing

“ing to the Decrees of the *Roman Pontiffs*,
 “and that I will give my Assistance for sup-
 “porting and defending your Rights as Arch-
 “bishop of *Canterbury*, and the Rights of your
 “Successors, and of the aforesaid holy Church
 “of *Canterbury*, &c.” So help me God.

Henry VIII. was pleased to think the Oath taken by the Clergy to the Pope, inconsistent with their Allegiance; but as the Suffragan's Oath to the Archbishop bore some Resemblance to the Homage allowed to be paid to the Mean Lord by his Vassals, no Exception was taken against * that by the King.

Perhaps an Inquiry into the Progress of this Practice may not be disagreeable.

The first Step in this Way was contrived by *Novatianus*, who in the Controversy between him and *Cornelius*, concerning the Election to the See of *Rome*, about the Year 252, obliged his associate Bishops to swear they would never desert him, and return to *Cornelius*. But this Innovation was so severely animadverted on in certain Epistles, ascribed to *Cornelius*, that no one appears to have repeated the Practice before *Anastasius* of *Thessalonica*, which is the Metropolis of *Macedonia*. Pope *Leo*, about the Year 450, tells *Anastasius*, that his compelling his Suffragan *Atticus* to subscribe a written Promise of Obedience, was an Act of manifest Injustice. But *Justinian*, about the middle of the sixth Century, having established a more solemn Test of the Faith of Persons to be ordained, requiring the Bishop Elect, previous to his Ordination, to give in a Libel or written Form of his Faith, subscribed with his own Hand, and repeat the Prayers used in the Oblation of the Eucharist and at Baptism, Metropolitans soon after insisted to have this Article added to the

Fox's Acts and Mon.

* Rushw. V.

4. Nal. V. 1.

The House of

Lords in 1640,

thought other-

wise; for a-

mongst the

Reasons given

for excluding

the Bishops

from the

House of

Lords, one

was, that the

24 Bishops

have Depen-

dence on two

Archbishops,

and take

Oaths of Obe-

dience to

them, and

have Expect-

ancy of Tran-

slation to Pla-

ces of greater

Profit.

A. D. 252.

Ant. de Dom.

V. 1. p. 443.

Ibid.

De Marca,

p. 791.

Novell. 137,

n. 2.

Sub-

Subscription, namely, that they should promise to adhere to the Form of Prayer used by the Ordainer.

The Bishops made no Difficulty about this Addition to their Subscriptions, because by the Council of *Agde*, held in the Year 506, and by the Council of *Epone* held in 509, it was appointed, for the sake of Uniformity, that one and the same Order of celebrating divine Service, should be observed in all Churches of the same Province, and that Bishops should follow the Forms of Prayers used by the Metropolitan.

Sozomen, L. 5.

c. 3.

In earlier Times, it was the Custom for every Diocesan to form a Liturgy for his own Church; and, as these Liturgies were Summaries of Faith, which it was now become the Privilege of Metropolitans only to compose; A Profession or Promise to use the Metropolitan Form, was understood to be a Promise to adhere in the Faith of the Ordainer. From this slender Beginning may be deduced the complicated Oath to Metropolitans.

Annal. ad An.
590.

Baronius has handed down to us the Form that was in Use in the Year 590, whereby it appears, that the Ingagement of the Bishops of that Age, was an Obligation to persevere in the Faith of the Ordainer. About 132 Years after, *Boniface*, Archbishop of *Mentz*, swears more explicitly to adhere in the Catholic Faith and Communion, of which he acknowledges *Gregory II.* his Ordainer, to be the Bond and Center, as Vicar of Christ: But as yet there was no Promise of Obedience of any kind, much less of

* *Baronii Annal. ad Ann.*
723. and of this Oath another Copy is extant in an earlier Writer, viz. in *John Aventines Annales Boiorum*,
p. 167.

Observance of any * consuetudinary Rights or Privileges. At length, when Metropolitan Authority was understood to be derived

ved from the Use of the Pall, the Pope made that a Pretence to demand an Oath of Fidelity and Obedience from the Archbishop elect, before he was to receive that qualifying Favour; and by this Device, the Allegiance due from Archbishops to Princes, was transferred to the Pope; as appeared not only from the Presumption of Archbishops in trespassing on the Rights of the Crown, and particularly in the Conduct of *Anselm*, who avowed his Obligation to comply with the Pope's Direction in the Dispute about Investitures, whilst all the Bishops of the Province, that were then unfetter'd by Oaths to the Pope, adhered to the King and withdrew from their Primate. "*In his exequendis omnes Episcopi Angliæ Primati suo * restiterunt.*" But as the Popes imposed Oaths of Fidelity upon Metropolitans, so Metropolitans followed their Example, and enlarged the Oaths to be taken by their Suffragans on their Ordination.

The first Intimation of Obedience in the Oath at Ordinations, occurs in the Formularies introduced by *Hincmar*, Archbishop of *Rheims*, about the Year 871, wherein he obliged his Suffragans to profess they would obey the Metropolitans of *Rheims*, and the Prelate of it, according to the holy Canons of Councils, and the Decrees of the Apostolic See, published in the Canons and Laws. This Example being followed with great Alacrity, and improved by

p. 167. It runs thus: "*In Nomine Domini, Dei; & Servatoris nostri Jesu Christi, ffr, imperante Domino Leone a Deo coronato, magno Imperatore, Anno septimo post consulatum ejus; sed & Constantini magni Imperatoris ejus Fili lii Anno quarto, Indictione sexta, Bonifacius divino Munere Episcopus, tibi beate Petre, qui Committum Christi extitisti primarius; Gregorio Vices tuas modo gerenti, omnibus Successoribus tuis promitto, per Patrem, & Filium, & Spiritum sanctum, qui tres, unus Naturâ simplicissimus Deus est, per hoc sacrosanctum Corpus spondeo, germanam Christianæ Pietatis Veritatem, quoad Vita & Vires suppetant, sectabor, Concordiam servabo, Sacrificiis interdictos devitabo, Mendaciorum Sectas, Errores pestiferos, contra majorum scita Romano Pont. renuncabo.*"

* Malmesbury.

Baron. Annal.
ad Ann. 871.

succeeding Metropolitans in all Parts, gave Oc-
 casion to an Appeal to *Rome* in 1227, against
 the Patriarch of *Grado*, who had carried his
 Points a little too far, and thereupon *Gregory*
XI. established this Yoke upon the complain-
 ing Suffragans, by a Resolution that had the
 Decret. L. 1. Air of a Decree in their Favour, viz. that Me-
 Tit. 33. c. 15. tropolitans ought not to obtrude any Matters
 & L. 2. Tit. upon their Suffragans, under Pretence of custo-
 14. c. 4. mary Practice; but should use the Form of Pro-
 fession, which was used by the Pope himself,
 with respect to his Co-bishops, who were im-
 mediately subject to the Holy See.

In the mean time, the Bishops of the greater
 Sees in the Province of *Canterbury*, appear to
 have had no Relish for this Imposition. *Gil-*
bert Foliot postulated to *London* in the Year
 1163, excused himself from entring into this
 Engagement to *Becket*, under Pretence that a
 translated Bishop was not bound to repeat his
 Profession of Obedience; and this Question be-
 ing carried before the Council of *Tours*, which
 was sitting at that Time, was determined in Fa-
 vour of the Bishop.

Becket therefore, to strengthen his Pretence
 to this Homage, procured a Bull from *Rome*
 in 1166, that every Suffragan of the Province
 should hereafter be consecrated in the Metropo-
 litical Church, (to which he was to swear Sub-
 jection) unless he obtained the Consent and Li-
 cence of the Prior and Convent of *Canterbury* to
 be ordained elsewhere.

It had been the Usage in primitive Times,
 for the Bishop Elect to be consecrated in the
 Church to which he was elected, as is intima-
 ted in *Cyprian's* Epistles: And after this man-
 ner St. *Augustin* was ordained by the Primate of
Numidia, in his own Church of *Hippo*. But it
 happened

Epist. 77. 8.
 Vita Aug.

happened to suit the Designs and Intrigues of the *Arian* Party, to have this Service performed in the Metropolitan Church; and accordingly *Gregory* of *Cappadocia*, who was obtruded upon the See of *Alexandria*, in the Place of *Athanasius*, was ordained at *Antioch*, and not in the Episcopal Church. Thus began this Practice, and in Time it became very burthensome De Marca, and expensive; therefore *Robert Grossthead*, Elect of *Lincoln*, was not to be prevailed upon to add Weight to the Innovation, by conforming to it; but refused to be consecrated in the Metropolitan Church. Epist. Grossthead in Brown's Fascic. V. 2.

However, the Accession of this new Privilege to the Metropolitan Church, gained in Time the End for which it was designed.

For, about 1259, when *Henry Wengham*, Lord High Chancellor of *England*, was elected Bishop of *London*, and took the Liberty to add to the Profession of Obedience he was making to the Archbishop, at the Time of his Consecration, a Salvo of the Rights of the See of *London*, the Archbishop, disdaining an imperfect Homage, compelled him before many of the provincial Bishops to repeat the Oath of Obedience again, and omit the saving Clause he had tacked to it before. For the Oath was not used merely as an Obligation to canonical Obedience, but as a Matter of considerable Agency in the many Contests, that had been or were at that Time on Foot: Thus *Bernard* nominated in 1115 to the Bishopric of *St. Davids*, was compelled, "*Præstare Sacramenta contra Canones extorta de non sustentanda Lite contra Cantuariensem Ecclesiam.*" Wharton de Lond. Episc. p. 96.

Hoveden. c. 797. 8. 9. and afterwards by Concil. V. 24. Peccham, Courtney, and others, it was applied p. 83, 4. Concil. V. 3. to support the Archbishops Claims about Wills, p. 188, 189;

Visitations, Appeals, and such like Incroachments.

P. 351, 365.

In this Way, the *Roman* Pontiffs had frequently hampered the Consciences of Bishops, when called to Councils to consult about the Affairs of Religion; *Aventine*, in his *Annales Boiorum* relates, that the *German* Bishops were compelled to swear “*in Verba Romani Pontificis*,” and therefore the Embassadors of Duke *Maurice* of *Saxony* to the Council of *Trent*, proposed to have the Bishops absolved from the Oath they had taken to the Pope; since the Synod could not be considered as free and unbiased, whilst it was subject to that Influence, which had defeated the Endeavours of former Councils. And from hence one may account for the Renitence which *Heylin*, and *Strype*, and *Burnet* say, Bishop *Hooper* the Martyr expressed against taking this Oath of Obedience. He was not willing to have his Sincerity surpris'd into an Ambuscade, by indefinite Obligations, that might be construed so as to obstruct his Endeavours for a further Reformation, which he had determined to prosecute, at the Hazard of his Life.

Sleid. Comm.

Before then this Chapter is closed, it might be proper to review the Steps and Gradations in the Decline of the Constitution, from a national Establishment and legal Exercise of Discipline, to a spiritual Empire and despotic Administration; from Freedom of Debate in mixt Councils or pure Synods, to an ecclesiastical Cabal under Legatine Management and Restraint; from Courts, easy, expedite, and conducive to the Common-weal, to a Judicature precarious, prolix, and oppressive to the Subject; from a Church competently endowed, to impoverished Vicarages; from a Prelacy be-
loved

loved and adored, as the Ministers of Justice, as well as of the Gospel, Friends to their Country, and Supporters of the national Liberties, to a Bench divested of Power to serve the Public; without Abilities for Discipline, or Authority to protect the Innocent and correct the Immoral; disunited amongst themselves, complained of by others, and either for Preferment or Protection throwing themselves into a Dependence on the Court, and drawing the Indignation of the Nation upon their Servility and Abjectness.

These several Changes, most of them brought about by the Metropolitcal Hand, as that was directed and strengthened by papal Artifice and Power, might here be properly reviewed, if the Detail of them had not been already too tedious.

It must suffice then to recollect, that a clear Evidence hath been exhibited, that the Intercourse between the Church of *England* and *Rome* in the seventh, eighth, and ninth Centuries, is no Mark of the Subjection of the one to the other, but only of an equal and brotherly Correspondence. — That the Affairs of the Church, especially the Nomination to Bishoprics, Ordination of Bishops, Settlement of Tythes, and Cognisance of Matrimony, in the different Territories or Kingdoms of the Isle, were under a different Direction in each, by the Authority, or in Subordination to the Authority that presided in the State. That the Primacy of the See of *Canterbury*, in Virtue of Pope *Gregory's* Appointment, was not acknowledged or allowed, nor any Obligation owned for two Centuries by Bishops in other Districts of the Isle, to receive Ordination from the Bishop of *Canterbury*. — That from the Mission of *St. Austin* to the twelfth Century, the Pope's Claim to Jurisdiction here,

had often been rejected with Scorn: And when the Archbishop of *Canterbury*, as Legate of the holy See, had let in the Pope's Jurisdiction by Collusion, the Administration of the national Church, under the Inspection of *an universal Pastor*, became thereupon the Subject of universal Complaint.

C H A P. III.

AFTER this Enumeration of the Irregularities in the Exercise of Jurisdiction, it is not difficult to apprehend the Effects; since the best Laws are but a dead Letter, if negligently administered: Therefore *Grosthed* * in 1250, the Bishops in the Synod of † 1282, the Proctors for *Exeter* ‖ in 1328, *Gascoign* in 1357, as cited by *Wood*, the Bishops and Clergy in the Synod of § 1399, *Richard* † *de Ullerston* in 1408, and the Bishops and Clergy : in 1512, imputed the Decay of Discipline in a great Measure to the Interruption of Diocesan Jurisdiction.

What other Fruits could be expected from the most perfect System of Canons, if their Execution is procrastinated by the dilatory and precarious Forms of forensic Practice, interrupted frequently by the Claims of contending Judges, and more frequently by the Trade of Appeals? But the Dissatisfactions naturally attending such a burthensome Administration of the Laws, were greatly aggravated by several unfavourable Incidents in the Beginning of the sixteenth Century.

First, Bishops had begun in the Reign of *Henry III.* to reside less than was usual in former

* Fascic.

Brown, V. 2. 256.

† Concil. V. 2. 75.

‖ Ib. p. 549.

P. 181. 2.

§ Concil. v. 3. 242.

† Ib. p. 653.

∴ Petit. quoad Reform.

MS. in Biblioth. Coll.

Trin. cont.

Arti. 9.

mer Times, which presently drew much Odium upon the Bench; and the King was advised to give Satisfaction to the complaining People, by remanding them to their deserted Cures, and accordingly ordered them to Residence, under the Penalty of being disseised of their Temporalities, as his Precept to the Bishop of *Hereford* Prynne, V. 2. sets out. Nevertheless, in the Reign of *Edward* p. 1011. III. the Bishops returned to Court, and thereupon the Lords and Commons in the Parliament of 1377, joined in an Application to the King to remove them. Cotton's Records, p. 112.

But in the Reign of *Henry VI.* they absented still more from their Dioceses, and drew greater Complaints upon themselves. For the Country became exhausted with numberless Law-suits, which, while the Clergy were trained up in Bishop's Houses, and acquired there Experience as well as Letters, had been made up for the most part in each Parish by the Discretion of the Incumbent. But when the Bishops betook themselves to Court, and withdrew the Entertainment they were wont to give to Scholars in their Houses, the Clergy sunk in Figure and the Estimation of their Parishioners; and, being no longer resorted to as Arbitrators, Gascoign and every Controversy was carried into an expensive Wood, p. 224. Course of Litigation, which emptied the Purses of the People, and filled the Nation with Discontents, especially against the Clergy.

And yet in the Reign of *Henry VII.* the Court was no less frequented by the Bishops: For, that Prince was supposed to be tempted by the Frugality of his Genius to employ many Bishops about Court, because he might recompense the Service of Ecclesiastics at an easier Lord Bacon, Rate than he could the rest of his Subjects; p. 16.

and the Frequency of Vacancies, occasioned by

a husbandly Course of Translations, would increase the Revenue of his Exchequer, as well as the Dependence of his Servants; a Dependence which might have been fatal to the Liberties of the Nation!

To explain this Intimation. The Statutes of Provisors, tho' they had remained unexecuted for Ages, and were often broke by our Princes, who condescended to solicit the Pope for forbidden Favours to their own Subjects, yet raised many Forebodings in the Clergy of Danger, by their taking Preferment in a Way prohibited by the Laws of the Land. Therefore in 1427, they moved in Parliament for a Repeal of those Statutes, but in vain. Upon this Repulse, they were reduced to a Necessity either of taking Refuge under the Clemency of the Crown, or of relinquishing the short and easy Road to Preferment, by papal Anticipations; so that, when the former became their Option, they often received provisory Bulls from *Rome* to Prelacies with one Hand, and a Pardon of their Misdemeanour from the Crown with the other. Many of these Pardons are still extant amongst our Records; and may be considered as Evidences of the Virtue of those Princes, who were not tempted to enterprize upon the Rights of the Constitution, at a Season when the Clergy, that heretofore made head against the Innovations of King *John*, *Henry III.* *Edward II.* and *Richard II.* and had been a Kind of Conservators of the Great Charter, so far as the Interposition of ecclesiastical Authority could avail to conserve it, were then, by an Impatience to rise, and an ambitious Pursuit of Translations and *Commendams*, brought under a Disability to assert any longer the Liberties of their

Cotton's Rec.
p. 603.

Rymer's Fœd.

their Country, if the royal Councils had been disposed to subvert them.

This Reflection is verify'd by the Separation from *Rome*, while the Bench was in this servile Condition; that Necessity to comply with the King's Pleasure, which threatned Ruin to the Nation, being made, by the invisible Hand of Providence, a Means to facilitate that Separation, and in Consequence of it, to recover the antient Constitution, and establish the free Use of the Gospel.

But the Dissatisfaction with ecclesiastical Government was aggravated from another Quarter; namely, the Industry of the monastic Orders to stir up and inflame Men's Minds against it.

These Orders were upon the Foot of a Toleration, not subject to ordinary Regimen, or the Discipline and legal Institutions of the national Church; but at Liberty to preach the Word of God in their own Way, accountable in very few Respects for any thing they were pleased to say or to do. Yet amongst them there were some very exemplary Men, who made a proper Use of Retirement, and Abstraction from the Business of the World, to keep alive in dark and ignorant Ages, the Embers of sound Learning. But the greatest Part of them falling into a perverse Habit of Mind, which an Affectation of Singularity in Life and Manners is too apt to create, imployed themselves in making Pulpit-declamations against the legal Establishment of the national Religion, — A Vein of preaching so agreeable for the most part to the Ears and Disposition of the Hearers, that it has been found to give Impressions to the Disadvantage of a wise and well-order'd Administration; but under an unpopular

lar and burthenſome Government, ſeldom fails to make Men too ſenſible of Hardſhips, too eager of Redreſs, and ſometimes of Revenge.

The Biſhops and Clergy had a clear Apprehenſion of the miſchievous Effects of Calumny, concealed under the Cloak of Piety. They ſaw, that againſt the Exemptions of monaſtic Orders, nothing could with Reaſon be propoſed; for the Moderation of Pontifical Government had introduced a Toleration for theſe Orders throughout Chriſtendom; yet a Toleration of Calumny againſt a legal Adminiſtration was of difficult Diſeſtion. Therefore the Biſhops and Clergy had frequent Conſultations upon the Matter, particularly in 1486, to conſider what Courſe was to be taken to defend an indefenſible Go-

* Convocatio Prælatorum & Cleri Provinciæ Cant. 13 Die Menſis Februarii, in Eccleſia S. Pauli, London.

“ Dominus communicavit
“ cum Confratribus ſuis, præ-
“ latiſque & Clero de pluribus
“ reformandis in Eccleſia, &
“ ibidem inter eoſdem re-
“ ſponſum erat, quod Privi-
“ legia Priori S. Johannis Je-
“ ruſalem in Anglia, & Fra-
“ tribus ſuis conceſſa, male
“ & enormiter hiis Diebus
“ utebatur; & quod prædi-
“ cantes Verbum Dei apud
“ Crucem S. Pauli, London.
“ maxime clamant contra Ec-
“ cleſiam & eccleſiaſticas Per-
“ ſonas, in earum Abſentia,
“ & in præſentia Laicorum,
“ qui ſemper Clericis ſunt
“ infeſti. Quare determina-
“ tum erat, ut dictus Prior
“ S. Johannis, ac duo de ſe-
“ nioribus cujuſlibet Domus Fratrum Mendicantium dictæ Civitatis, ac alii
“ docti Viri in Sacra Theologia in dicta Civitate ad Eccleſias promoti, vo-
“ centur erga Diem Martis proximum ad habendum Communicationem
“ cum eiſdem de & ſuper Præmiſſis. Concil. v. 3. p. 618. † Wood. p. 81.
§ Ibid. p. 210. || Ibid. p. 130.

vernment, againſt the daily * Af-
perſions of privileged Preachers,
who ſtruck at the Revenues of the
Church, as well as at the Reputa-
tion and Credit of the Clergy in
conſiderable Preferments. — Who
aſſerted the † Poverty of Chriſt
and his Apoſtles; maintaining,
that they poſſeſſed nothing in their
own Right, but had all Things in
Common. — Who from thence
inferred, that Tythes were free
Alms, and that a ſettled Provision
or Allotment of Tythes to the § mi-
niſtring Prieſthood was unlawful. —
Who pointed their Eloquence
with particular Force againſt Plu-
ralities; and laid great Streſs upon
the Scripture, which recommends
to thoſe who have two || Coats, to
give

give to those who have none. — Who expatiated largely upon the + Ignorance and Laziness, the + Hospinian. Luxury and Immorality of secular Priests. In p. 256, 7, 8, 9. short, the Exuberance of whose Detraction exceeded all that went before, and the Fragments of it have supplied the want of modern Invention, with stale and misapplied Observations against the Church and Clergy of the present Age.

All Ranks of Ecclesiastics were hurt by this Attack. The Bishops in their Reputation — for they had nothing else to loose; their Manners being under the Protection of the Crown; and their Jurisdictions in the Hands of the Dean of the Arches; yet the Bishops were insulted for neglect of Discipline, which Legatine Innovations had disabled them to execute. The parochial Clergy were in the same Situation; that is, had Imputations cast upon them, for what they deserved the Compassion, rather than the Censure of Mankind. — Imputations of an over-flowing Affluence, whilst they were starved by the Fraud of Impropriations to gratify monkish Rapacity. *

Deans and Chapters likewise had a Share in this general Profusion of Calumny, and the Consequences of it. But as a true State of the Endowment of Capitular Bodies is very little known, it is necessary to cast an Eye upon their original Plan, before any Estimate can be taken of the Damages they received from the pyratrical Monks.

* But as the Credenda of Religion upon which the [Regular] Clergy laid the greatest Stress, consisted chiefly in Articles about the Power and Revenues of the Church: little more is known as to those Dissenters [from Papal Impositions] than that they spoke freely as to the Manners of the [Regular] Clergy, especially as to their Use of Excommunications and Demands of [Appropriate] Tythes. [For Wickliff is said to have Retracted.]

N. B. The Reader is desired to Review the Paragraph following line 13, p. 23. and read it with the Restrictions express'd between the Brackets, in this Marginal Note.

A DIGRESSION upon the REVENUES of Cathedral Churches.

THE REVENUES of these Churches, which were founded, as their Charters import, for the Increase of divine Service, and the more eminent and solemn Celebration of religious Offices, arose from three several Funds. I. From the Produce of their Lands and Manors. II. From a kind of annual Tribute thro' the Diocese, upon the Parishioners of the Mother Church, under the Name of *Pentecostals*. III. From voluntary Benefactions, particularly *Oblations*, *Obits*, and *Offerings*.

* This is a Description of the State of the Church of LINCOLN, and suits most other Cathedrals of ancient Foundation.

Out of the Lands or common Estates was assigned to every secular Canon a separate Portion, which is called his Prebend, or Subsistence; tho' through the Decrease of the Value of Money, and the present Method of leasing prebendal Estates, it now appears a very scanty Provision.

But that Method was not of very ancient Date. In early Times Collegiate Bodies seldom rented out a greater Part of their Estates, than was answerable to the Demands for Specie upon the House; but they occupied the chief Part of their Lands by their Slaves, the miserable Remains of the conquered *Britons*, who were bequeathed, with the Soil, like the rest of the Stock upon it; and were used for tilling the Ground, and feeding the Cattle, to supply the House with necessary Provision.

* This unhappy Race was not quite extinguished at the Reformation, there being a Series of Manumissions upon the Registers at Lincoln, from

And it seems to have been a general Law, that they were not to make Grants or Leases for any long Term; because, in the *Saxon Chronicle*,

Chronicle, there is a Memorandum of a Grant by the Abbot and Convent of *Peterborough*, in 775, for the Life of the Grantee, confirmed by the King in a great Council, (as I take it,) which is an Argument of a Want of Power in the Abbot and Convent, to establish such a Grant by their own Act.

Neither is this Conclusion much affected by an obscure Passage in the Council of *Calcwaite*, that seems to allow Grants for one Life; inasmuch as, long after this Council, in 852, another Grant for Life from the Abbot of *Peterborough*, stands in the *Saxon Chronicle*, as confirmed in Parliament. And it is not likely, that in that Age, the Estates of the Church should be left at Discretion, whilst the Demesnes of the Crown were not grantable without the Approbation of Parliament.

How Leases of Church Lands for long Terms came afterwards into Use, is not here necessary to enquire; but it is certain, that in the thirteenth Century, Ecclesiastics, not only Communities, but Bishops and separate Dignitaries, continued to Occupy a great Part of their own Lands. And, whilst that was customary, prebendal Estates, which now produce a very inconsiderable Rent, were a competent Subsistence.

But besides the prebendal Fruits, each Canon had a Portion in the Surplusage of the Revenues of the Church, arising as well from the unappropriated Estate, as from Pentecostals, Obits, Obventions, Offerings, and other considerable Benefactions; which, after discharging the Expences of the Fabric, and other necessary Duties, were all to be portioned into quotidian Distributions, and other Dividends amongst the Prebendaries, for the Support of Hospitality, in propor-

the earliest Times to the Year 1529, when the following Entries appear in *Longland's Register*, viz. Manumissio Johannis Bate p. 102. Jo. Martin, p. 108. T. Barnes, p. 108. T. Skinner, p. 219.

proportion as they observed Residence and canonical Hours. But out of this eleemosynary Fund, the Fabric was always to be first provided for.

Pentecostals, from which arose a considerable Revenue to Cathedrals, were a stated annual Composition, paid by every House or Family in the Diocese, as an Acknowledgment of Gratitude and Obedience to the Mother Church, from whom at the Feast of *Pentecost*, they received a general Absolution. And there are Processes upon the Register Books of the Dean and Chapter of *Lincoln*, for collecting the Arrears of this Duty, till the middle of the fourteenth Century. Out of this Revenue were raised in a great Measure those noble Edifices, which are an Honour to Religion, and an Ornament to the Nation: And the Parishioners of the Diocese paid this Assessment with greater Satisfaction, as they saw a sufficient Part of it applied towards the Erection and Support of Fabrics, which were made a kind of Chronicle for their Families, and Memorials of the distinguished Virtue and Piety of their Ancestors.

After the Liberty of burying in Churches (which was settled in *Saxon* Times) was restrained to the Priest only, or to such Lay-men, as by the Piety of their Lives had arrived to a pitch of sacerdotal Sanctity; it became almost an universal Fashion to inter Men of Rank and Birth in Cathedral Churches; and on that Account, their Families entertaining the greater Veneration for them, as the Sepulchres of their Fathers, paid with Readiness these Pentecostals which were applied to Support and Adorn them.

Neither

Neither was the Execution of the many Laws for restraining the Distinction about Burial disregarded; for *Hugh Bishop of Lincoln* enforced them on the Corps of *Fair Rosamond*, which he caused to be removed out of the Church, as a Punishment of that Frailty, which, under Royal Protection, had passed uncensured in her Life. And the Exclusion of Suicides, and Excommunicates at this Day from the common Offices of Burial, may be traced from this Usage.

Spelm. v. 1.
p. 396, 419.
456. and the
Canons an.
960. ibid.
Hoved. c. 403.

Obits were of the same Original, being customary Acknowledgments for Mens Participation of the Prayers of the Mother Church whilst living, and their dutiful Remembrance of these Benefits in their dying Moments.

But these considerable Branches of the Revenue of Cathedral Churches, began to be very much impaired, about the thirteenth Century, by the pilfering Practices of the *Friars* predicant.

For the Court of *Rome* determining to undermine Diocesan Episcopacy, by all possible Ways, took an Handle from the Growth of Heresy, which was charged on the Negligence of the Bishops, to erect an Order of Preaching *Friars*, who were to make more effectual Inquisition into the State of Religion, for the extirpating all false Doctrines; on this Account they were called Inquisitors, and, by Contraction of that Term, *Quæstors*, which soon became their more common Name; because it intimated rather a lucrative Motive of their Mission, than a disinterested Principle; sometimes they were styled Dominicans, from *Dominique de Gusman*, History of Naples, v. 2. Founder of their Order.

These *Friars* soon gained great Reputation of Sanctity and Zeal for Religion, by their Vows and

and Professions of Poverty, that is, of living upon the voluntary Alms and Oblations of the Faithful; and insinuated themselves insensibly into the Esteem of the People, by Declamations (as hath already been mentioned) against the Riches and Pride of the established Clergy, which they found was a very ingaging Topic. They had besides an Opportunity of recommending themselves, by granting plenary Indulgences and Remission of Sins; of confessing and giving Absolution to the Faithful in all Places, in Virtue of Privileges bestowed upon them, by *Innocent III.* and *Honorius III.*; and they used these Privileges to absolve Excommunicates, and other Criminals, who had * incurred the legal Censures of their Ordinaries. Thus every paltry *Friar* was to controule the Bishop of the Diocese.

* Concil. v. 3.
p. 364, 5.

These popular Practices conspiring with the Superstition of the Age, the Love of Novelty and Mens common Disgusts against the ordinary Forms of Government, had such an Effect, that the People forgot at once their Duty and Obligations to their Mother-Church; set no longer any Value upon a Participation of her Prayers, nor on her Absolutions pronounced at the Feast of *Pentecost*; nor so much as remembered her in their last Moments; but, living and dying, relied upon the ghostly Advice of these *Friars*, and hoped to merit Salvation by enriching those, who pretended to be under an Incapacity to taste the Fruits of their Bounty.

And yet there was something so coarse as well as rapacious in the Address of these *Friars*, as makes their Success almost unaccountable. For it was their Practice to stop in the middle of their Sermons, when they thought they had warmed

warmed the Superstition of their Audience into a Fit of Benevolence, by venting plenty of Scandal on the establish'd Clergy, and descending from the Pulpit, beg Alms round the Church; then returning to the Sanctuary for Detraction, resume again their interrupted Discourse.

From this extraordinary Turn, may be dated the Decline of the Cathedral Clergy, and the Decay of their Edifices.

The Benefactions, by which Both were in a great measure supported, being intercepted by these Monks, their standing Rents were found insufficient to maintain the statutable number of Prebendaries, and at the same time to repair and provide Decorations for the Fabric, which it was a Degree of Impiety to neglect; and by these Means, it became necessary in the fourteenth Century, to vary from the original establishment of these Societies, which could no longer maintain their Fabrics and the number of Residents, that were before supported in a commodious Way.

Nothing as yet had been required of the Prebendaries but Residence, to merit their Portion in the Distributions; but now, to limit the Dividend to a small number, it was ordered, that before any Prebendary could be admitted to a Residentiary Attendance, he was charged with certain expensive Entertainments, for which he might compound with the Chapter at a stated Sum; and this Expence ran so high, that scarcely one in ten of the Members were able to go through it, and enter into Residence.

But there was another unforeseen Inconvenience that followed this Reduction; when the Dividends became again considerable, by being apportioned amongst a small number of Residentiaries, the few, some as Chaplains, Coun-
fellors,

fellors, or Envoys abroad in the King's Service, others as attending on the Pope, in general Councils, foreign Universities, or on the Bishop of the Diocese, would claim these Revenues set apart for the Support of Residence, though perhaps they had not resided one Day.

In 1414, Henry V. writ to the Dean and Chapter of *Lincoln* to dispense with the Absence of *Thomas Breune*, Sub-dean of *Lincoln*, whom he had sent abroad upon a public Negotiation.

In 1429, *Peter Partrych*, Chancellor of the Church, had the Honour of a Recommendation from King *Henry VI.* to the Chapter of *Lincoln*, on the same Account.

In 1450, this pious King writ the following Letter to the Dean and Chapter ; “ *Trusty and well beloved, We grete you well.* And forasmuch as we have desired our well-beloved Maister *John Derby*, Clerke, to do us Service in Parties beyonde the Sees, We pray you as ye love the Welfare of us, and of this oure Royaulme ; that ye for Time of his Absence dispense in such Wyse with hym of his Residence, and of his Feste which he is bound to make, as We be informed, that he may stande in as good Caas whilst he is in oure Service absent from you, as though he was still wyth you abiding, and that ye make him seure herof by your Letters, as ye desire to please us. Yeven under our Signet, at our Castell of *Leicester*, the 28th Day of *May*.”

The Reason of the King's recommending it to the Chapter to dispense, instead of using his own Prerogative, which, in the Suspension of penal Laws, was at that Time thought to be very extensive, was probably this ; that here was no penal Law, nor any Censure or Forfeiture incurred, upon which the Royal Dispensation could operate. Residentiary Dividends are

in

in the Nature of an Estate devised upon a precedent Condition, which must be performed before the Claimant can be attached of any Right to it; and the Failure of the Performance of the Condition extinguishes his Claim without any Sentence or Decree. Prebendaries were not instituted into a Right to a Dividend, but only put into a Condition to merit one by Residence; so that the appointed Course of Distribution of the Revenue amongst those only who have resided, was of itself an Exclusion of those, whose Choice, or Default, or Misfortune it was that they did not reside.

And afterwards it came to be thus determined in the Council Chamber, upon the Case of Dean *Mallet*, who claimed his Dividend in Virtue of a Dispensation from Queen *Elizabeth*, "That the Dispensation should have no Effect, but he must reside, or surcease his Claim."

The same Course was taken in 1694, when Bishop *Gardiner*, who was one of the Residentiaries of *Lincoln*, had the Favour of a *Commendam* from King *William*, which is entered upon the Chapter Books; and upon the same Register it appears, that the Bishop, though he asserted he could hold it "in *Commendam una cum Episcopatu* *Lincolniensi* *Virtute* *horum Instrumentorum, ad amovendam tamen omnem Controversiam respectu Residentiæ suæ in dicta Ecclesia* *Virtute dictorum Instrumentorum, hujusmodi Residentiam continuare, aut pro Residentiario ejusdem Ecclesiæ reputari aut haberi minime intendit, nec voluit, salva tamen propria sua parte Dividend. in Computo Anni currentis.*"

However, to King *Henry's* Letter of Recommendation to the Chapter, to dispense with *Derby's* Absence themselves, the Chapter sent a dutiful Answer, "That by the ancient Customs

“ of the Church, the Distribution of the annual
 “ Revenues ought to be made amongst the
 “ Prebendaries only, who had duly resided in
 “ the Church, which Customs they were bound
 “ by Oath to observe; and therefore they could
 “ not, without offending God and their own
 “ Consciences, comply with his Majesty’s Order
 “ to appoint any Part to Master *Derby*, who
 “ had not performed due Residence.”

* Artic. concern. Reform.
 univ. Eccles.
 Ann. 1414.
 Concil. v. 3.
 p. 360.
 Sect. 18. De
 excessivis, &c.

But from the Defalcation of the Cathedral Revenues by monkish Rapacity, Controversies upon other Points arose in most Chapters, between the Residentiaries and excluded Members. The excluded Members questioned the Authority of the Chapter to impose such Terms on the Prebendaries, as debarred the greater Part of them from the Privilege of Residence; and in 1414, Complaint was made to **Henry V.* against the excessive Feasts imposed on the Collegiate Clergy, wherein it was suggested, that these expensive Entertainments were in Effect the Price and Purchase of Offices in the Church, which had been endowed by pious Benefactors, not for the Purpose of setting the Revenues to Sale, but for the Increase of divine Service, by a free and liberal Provision for those who were willing to reside. Whereas now, in many Churches, a few old Stagers ingrossed the whole Revenue, and others, who were well qualified for the Advancement of the Cause of Religion, were deprived of their intended Maintenance, because they were too poor to bear the Expence of the Entertainments exacted of Prebendaries, upon their Admission into Residence.

* Querela exhib. Synodo provinc. contra pecuniam & convivia exacta a Canonicis. An. 1531. Concil. V. 3. p. 747.

This Remonstrance having no Effect, the following * Petition was given in to Archbishop *Warham* and the provincial Bishops, in the Convocation called in 1531.

“ An

“ An execrable Custom hath crept into most
 “ of the Cathedral Churches of the Province,
 “ Most honoured Fathers, that when the Ca-
 “ nonical Prebendaries of these Churches betake
 “ themselves to Residence and Hospitality there-
 “ in, and are continually present at Church,
 “ and duly attend divine Service there, they are
 “ nevertheless not admitted by the Canons of
 “ longer standing, (who call themselves by a
 “ familiar Term, the Residentiaries, and di-
 “ vide amongst a few, the Revenues that ought
 “ to be divided amongst many) to a Share of
 “ the quotidian Distributions due by the Ap-
 “ pointment of the Law to those who are pre-
 “ sent at divine Service, unless they first do in
 “ Effect wickedly purchase a Participation of
 “ the Revenues of the Church, by paying a
 “ certain Sum of Money, according to the
 “ Custom, or rather Corruption, which in dif-
 “ ferent Churches is different, assessed by these
 “ Residentiaries; who, taking it to their own
 “ Use, will not explain the Ground of their De-
 “ mand: And likewise, unless they make some
 “ sumptuous Entertainments, or compound
 “ at a certain Price for them with the Residen-
 “ tiaries, to the great Impoverishment of those
 “ who are bound to undergo so heavy a Charge.
 “ From whence it comes to pass, that some
 “ having consumed in a few Days, what would
 “ have supported them a long Time, remain
 “ incumbered a great while otherwise than they
 “ ought to have been. Others are discouraged,
 “ either by the burthensomness of these Ex-
 “ pences, or out of a Detestation of Simony,
 “ to which this Practice hath a near Resem-
 “ blance, from the Duty of Residence and
 “ frequenting the Choir, to the great Diminu-
 “ tion of divine Service, and to the Prejudice

“ of their own private Interest : And it cannot
 “ but appear to your discerning Judgment,
 “ how pernicious this Abuse is. Wherefore,
 “ since it hath seemed good to our Metropoli-
 “ tan, to call a provincial Synod for the recti-
 “ fying what is amiss in Ecclesiastical Affairs,
 “ it is incumbent on you, most Reverend Fa-
 “ thers, and Prelates of the Province assembled
 “ in Convocation, to take under Consideration
 “ this most pernicious Abuse, and utterly to
 “ abolish it by your synodical Decree, lest it
 “ should in Time obtain the Force of a Privi-
 “ vilege, and become more hurtful.”

Such were the Effects of monkish Rapacity
 and Detraction upon Cathedral Revenues, which
 the Reformation found reduced to a Pittance,
 insufficient for Repair of the Fabric, and unequal
 to the Expence of Residence.

Alas! It hath been the Fate of Ecclesiastical
 Revenues to make too slow Returns to the
 Channels, out of which they may chance to be
 diverted by any unhallowed Hand ; so that
 these venerable Edifices, which are not only
 Monuments of the Munificence of our An-
 cestors, but Repositories of their Ashes, must
 in Time fall under the Injuries of monkish Ir-
 regularities, unless the Benevolence of the present
 or succeeding Generation prevents the Ruin, by
 substituting, in the Place of the long disused
 Contributions, some other Subsidy.

But enough upon Cathedral Revenues.

Every Part of the established Church was im-
 barrased by the Friars. They had gained a
 great Party in the Nation, either by the Weight
 of the Pope's Recommendation, or through the
 Influence of their repeated Harangues upon the
 Conscience of their Hearers ; or from the Pre-
 judices (for Prejudice should not pass under the
 Name

Name of Conscience) which Lovers of Novelty oft-times entertain against the ordinary Government; and this Complication of Humours brought the establish'd Clergy into a very uneasy Situation.

They were conscious of increasing Disorders in their Body for Want of Discipline; yet convinced that Discipline was not, could not be upheld, till, by a Reduction of the Courts of the Archbishop within legal Bounds, some Scope was left for the Exercise of Diocesan Jurisdiction; sensible, that the Success of Religion and Government depend in a great Measure upon Reputation and Authority; yet, convinced of the Impossibility of maintaining their Credit, whilst an Order was privileged to vent Scandal from the Pulpit, not only upon their Administration, but on the legal Constitution of the Church.

But their greatest Discouragement was, that the Privileges of the Court of *Canterbury*, and of the preaching Friars, Both flowed from the same Fountain of Power; and what Prospect was there of obtaining Redress of Grievances, that were countenanced at *Rome*?

Whilst they were under this Perplexity, *Wickliff* appeared, and * maintained the Rights of the established Clergy, against the Incroachments of the pillering Friars, and the Unlawfulness of Excommunication after an Appeal was made to the Crown.

* Præsertim vero [*Wickliffus*] Regiæ potestatis atque Ordinis Ecclesiastici Jura contra immanes Pontificis Romani & Fratrum mendicantium Usurpationes constanter pariter ac eruditè propugnavit: Eò Impudentiæ enim tunc temporis devenerat Arrogantia pontificia, ut

Regi in Ecclesiasticis Rebus nulla, in sæcularibus nonnisi dimidiata, Auctoritas conservaretur. *Cave's Hist. Lit. V. 1. App. p. 50.*

The Pope saw the Tendency of these Principles, and took a Pretence, from his Sentiments about the Eucharist, to send a Commission to the Archbishop and Bishop of *London*, to set on foot an Inquisition upon *Wickliff*, knowing that the Charge of Heresy would obstruct the Progress of his Doctrine. This Design of the Pope was further favoured by a suspicious Obscurity in *Wickliff's* Writings, (the necessary Effect of sanguinary Laws in Matters of Opinion) which sometimes seemed to strike at all ecclesiastical Government, tho' his true Point was the Maintenance of Power in the national Church, against pontifical Innovations, in various Shapes.

On these Accounts, and thro' the Influence of the Court of *Rome*, which was the Source of Preferment, as well as of Disorder, it came to pass, that *Wickliff* and his Followers, whilst they vindicated the Independence of the national Church, were constantly pursued by a Majority of the national Clergy; so that there were no less than four Parties in the Nation, the Squadron of preaching Friars, and the Archiepiscopal Fortes, each under pontifical Colours; the national Clergy headed by their Bishops, opposing and opposed by both in many Respects; and all three uniting against the *Wicklemites*, as suspected of Heresy.

To this inflamed State, a third Aggravation was added from the Pope's Incroachment upon the King's temporal Jurisdiction.

Beneficiary Rights, (that is, to Election, Collation, or Presentment to Bishoprics, Abbies, and Preferments of all Sorts) were Matters cognizable in the King's Courts, and twelve several Acts of Parliament had successively been made in the Reigns of *Edward I.* and

II. Richard

II. *Richard II.* *Henry IV.* and *Henry V.* to prevent the Interposition of the Pope, in Causes pertaining to the Judgment of the Crown. Yet in Contravention of these Acts, provisional Bulls to Bishoprics and other Benefices had a free Currency here; and at length Pope *Martin V.* who had stipulated in the Council of *Constance* to forbear this Insult upon the Justice and Majesty of the Realm, threatened to subject the Nation to an Interdict, unless these Statutes were repealed.

During this long Period, the Parliament had not taken their Eye altogether from the Affairs of the Church; and the Commons frequently delivered their Sense about it.

They complained of	{	The Oppression of ecclesiastical Officers and their Courts.	Cotton's Records, p. 15,
		Neglect of Residence.	32, 33, 61,
		Extortion of undue Fees for Probate of Wills, &c.	127, 164, 178,
		Excessive Exaction of Tythes.	536, 548, 118,
		But more especially of the Pope's Innovations; supplicating the Crown to redress them, or concur in expelling him out of the Realm.	106, 420, 421,
			356, 378, 296,
			536, 460.
			Ibid. 41, 61,
			72, 102.

As this was the Temper of the Church and State in the Beginning of the sixteenth Century, it was reasonable to expect, that the Crisis of the Distemper was at no great Distance; especially as *Germany* and *France* were on the mending Hand.

And accordingly Matters were brought to a Point in 1530, by some new Instances of Prevarication in the Court of *Rome*, relating to the Divorce of King *Henry* from Queen *Catherine*.

For that important Proceſs, after it had been pending before Legates here for ſome Time, was interrupted by the pontifical Conſiſtory's Admiſſion of the Queen's Appeal from an interlocutory Deeree, and Avocation of the Cauſe to *Rome*.

Hereupon the Nobility, Clergy, and Gentry joined in a * Letter to Pope *Clement VII.* complaining of this Denial of Juſtice, in which, if his Holineſs perſiſted, [they aſſured him] they muſt conclude they were abandoned by him, and ſeek for other Remedies."

Lord Herbert's Hiſt. of Hen. VIII. and Cavendiſh's Life of Wolſey.

This Letter was writ in the Style and Spirit of the Addreſs of the Diet of *Nuremburg* to Pope *Adrian* in 1523.

But no ſatisſactory Answer being ſent from *Rome*, the Parliament, to give the Pope a Specimen of their Reſolution, no longer to leave the Affairs of the Church under arbitrary Rule, though the Nobles and Commons ſtyled themſelves "Obedient Children of holy Church," empowered the King to treat with the Pope about a Regulation of the Payment of Firſt-Fruits, which was grown exorbitant; and provided, that in Caſe Difficulties ſhould ariſe, the Arch-biſhop, under the King's Nomination, ſhould conſecrate Biſhops for the future: And if his Holineſs ſhould inforce the Continuance of his former Exactions by Excommunication or Interdict, that Sacraments and divine Offices ſhould nevertheless be miniſtered as before.

Brown's Faſtic. p. 302. Ibid. p. 68.

This Act was formed after the Plan of the Arret of the Parliament of *Paris*, againſt the Exaction of Firſt-Fruits; and with as free a Turn as the Appeal of the Univerſity of *Paris* in

in 1517, against Pope *Leo's* Attempt to revive them.

But notwithstanding this Distaste in the several States of *Europe* at the Introduction of Disorders by papal Regimen; a Persuasion in some Men, that the Catholic Faith could not be maintained but by Submission to the pontifical Chair, (from which Principle much domestic Dissatisfaction had been experienced in this and many Kingdoms, by papal Intrigues,) in others, an Apprehension of great Commotions in the Peace of *Europe*, and perpetual Discord between Catholic Princes; in more a Foresight of the Violences of a popular Reformation, a Dread of the Extermination of all ecclesiastical Authority, the Pillage and Depredation of Church-Revenues, and Perversion of public Foundations and Endowments, concurred to check and suspend the first Emotions of their Resentment against the Injuries done to the Constitution by Usurpations of the Pope, and to controul their Inclinations for a separate Reformation, which, tho' warrantable from the Necessity of the thing, was likely to be attended with many Difficulties.

Grot. Hist.
Belg. p. 9.

Insupportable as these Disorders in Religion were, yet their Redress seemed equally hazardous. The Dilemma is thus stated by *Erasmus*. Says he, " Some will consent to no useful Alterations, whilst others will alter what ought to be retained, crying out against the Luxury of Priests, and the Tyranny of the Pope, &c. and will not be content to reform these Things, but will quite abolish them; yet even the first would not easily be effected, since it was more difficult to correct Men's inveterate Principles and Practices, than to propagate a new Religion, as the

" Con-

Erasmi Epist.

“ Conviction of the *Jews* met with greater
 “ Obstructions than the Conversion of the
 “ *Gentiles*.”

Sleid. Com.

Upon such like Considerations, most of the Powers of *Europe* were turning their Thoughts again to a general Council, and the Resolutions which had been taken by the *German* Princes at the Diet of *Nuremberg* in 1524, and at *Spire* in 1521, to proceed to a national Reformation, had subsided into an Agreement with the Emperor, to refer the Settlement of Religion, and Redress of their Grievances, to a general Council; for which the King of *France* expressed great Impatience.

Hist. of the
 Council of
 Trent, p. 59.

Neither was *Henry VIII.* less a Friend to conciliary Determinations; he had sent the Bishops of *Worcester* and *Rochester*, the Prior of *St. John's* and Abbot of *Winchelcomb* to the Council held in the *Lateran* by *Julius II.* in 1512; and in 1531, when Matters were drawing to a Point, signified to the Princes of *Germany* his Approbation of their Design to resort to a general Council. But many unforeseen Emergencies altered his Sentiments in respect to that Scheme of Reformation.

The Suit was now become more important; not only the Succession of the Crown being complicated in the Sentence, which was to determine his Religion to a distastful Wife, [in the Style of the Catholic Historian] or the quiet Possession of a darling Fancy; Questions not to be submitted to a precarious Judicature! but his Crown and Dignity; his Right to govern the Church and State, independent of foreign Controul. For it was easy to discern, that all the Interests of the national Church, (which, ever since the Intermixture of Legatine Innovations with the Metropolitcal Rights of the See of

Can-

Canterbury, and the Mission of preaching Friars from *Rome*, had been a Scene of continual Disorder, Turmoil and Contention, and now began to share in the common Hopes thro' *Europe*, of an approaching Reformation, from the Council near at Hand,) must receive their Settlement from the same Authority, of which the King should make Option for the ultimate Decision of his private Affair, as it was stiled in the Language of Courtiers.

The King's Appearance at *Rome* would legitimate, and re-establish the Pope's Innovations; and it is evident in History, that the Pope's Acquisitions from Time to Time, were not owing to Servility in the Body of the Clergy, but to the Complaisance of the Crown. This Option was therefore a Matter of great Importance to the Peace of his Realms, as well as of his Family; and, whether Policy and Prudence, such as ought to govern the Councils of wise Princes, in maintaining due Order in Church and State, or a Start of Fancy, (a Conjecture that can scarce admit of probable Evidence,) is supposed to have fixed him on a Recusation of the Court of *Rome*, yet his Measures may be justified by the Sense and Conduct of other Catholic Princes of the same Times.

For it has appeared to be their Opinion,

1. That a Compliance with the Innovations of the See of *Rome*, was not a Matter of Religion or Conscience, but turned on politic Considerations.

2. That upon the Pope's Refusal to rectify the Disorders in Religion, which his Innovations had universally introduced, every State had a Right to consult its own Welfare and Tranquility, and regulate what was amiss in the Church.

3. That

3. That tho' much Deference was due to general Councils, yet the Ground of their Authority was lessened, since the *Roman* Empire was cantoned into different and independent Kingdoms, insomuch as their Decrees were admitted or rejected, as they agreed or disagreed with the municipal Laws of particular States. And this had long been the Usage of *France*; That sagacious Nation soon discovering, that tho' the Nature and End of religious and civil Societies were different, and the Provinces of the secular and ecclesiastical Magistrate distinct; yet it was expedient the ultimate * Direction of both should be in one Hand.

* Vide Appellat. ab abusu apud De Marca, & Grot. de Imper. Summ. Pot. c. 9. § 24, 25.

Upon these Principles, the Independence of every national Church may be maintained.

But foreign Examples in Favour of *Henry VIII.* were countenanced by domestic Precedents.

The *Saxon* Princes and Bishops, tho' they revered and honoured the Apostolical Chair, yet excused themselves from Subjection to it; and the three first *Norman* Kings, as also the *English* Bishops, in the Case of *Anselm*, asserted their Independence; neither had the Authority of the national Judicature been more eminently exerted in any Instance, than in the Settlement of matrimonial Rights, and all their Incidents.

Moreover, the Supremacy of the Crown, and Parity of Bishops was warranted by primitive Practice, and the Word of God. Whether, therefore, *Henry VIII.* was carried by a warm Fancy into Schemes that had no Part in his dispassionate Thoughts, is a Question of no more Importance, than an Enquiry as to the Intention of the Priest, in religious Ministrations.

But,

But, it is of Moment, that the Nation had received the Conviction of three Centuries, that arbitrary Rule was inconsistent with the Nature of our Constitution, and the Genius of our Laws; hurtful to Justice and Discipline, destructive of public Peace and Unanimity, and oppressive to the private Subject: Therefore as the Restitution of a legal Government and Administration could not be accomplished, but by a Separation from *Rome*, and the Exercise of all Jurisdiction within stated Bounds, in Concert with, and Subordination to the King as supreme, the Policy of *Henry VIII.* for attaining these Ends was agreeable to modern as well as ancient Maxims.

To prevent this Step *Clement VII.* was pleased to compliment the King with the Offer of a Council to be held at *Mantua*, but that Prince's Sentiments of Councils were changed; and (notwithstanding the Fate of our *Henry II.* King *John*, and many foreign * Princes, who suffered for asserting the Laws of their own Realms, and the common Rights of the civil Magistrate,) resumed the ancient Supremacy of the Crown, and original Independence of the Church of *England*, resolving to have the Peace of his Family, as well as of the Church, settled by the national Authority and Judicature. For,

A Resettlement of the legal Government of the national Church, as it would not admit of Subjection to *Rome*, so was as unlikely to be attained in a general Council; although other Princes, discouraged with the Difficulties of a separate Reformation, were amusing themselves with delusive Phantoms of Redress in the approaching Congress at *Mantua*.

* Leo III. Chilperic.
Hen. IV. Hen. V. Barba-
rossa. Hen. VI. Otho IV.
Fred. II. Emperors. The
Earl of Tholouse, Manfred
and Conrad of Sicily, Peter
of Arragon, &c.

It

It was found by long Experience, that religious Principles, which pass for speculative Notions, had very extensive Connexions; therefore to prevent the Revival of former Interferings, it was necessary to reconcile the Interests of Church and State, and shape a legal Course to make them subservient to the Advancement of each other, and the Peace of Mankind in this World, as well as the next.

But this Work could not be attempted in a general Council. — One common System of Laws and Government for the different States of Christendom, would be nothing better than an *Utopian* Dream; and yet an orderly System of Laws was essential to the Business of redeeming this Nation from arbitrary Rule; because possibly the Church, unconfined by Law, might resume that Dominion which *Henry VIII.* had in Hand to reduce; or, for want of due Support by Law, become the Slave, or false Oracle of the State, as in Pagan Times.

This Dilemma could only be obviated by national Establishment. Therefore *Henry VIII.* acted consistently in declining a general Council.

C H A P. IV.

WHEN the Churches of *England* and *Rome* had returned to their Primitive State, a State of Independence on each other, the Intercourses, which their Fellowship in Christ might prompt them to maintain, ought to have been carried on according to the Rules of primitive Correspondence.

In early Times, it was the Practice of Bishops to communicate to each other their Professions
of

of Faith, their Formularies of Worship, the Emergencies in the Churches under their Care, with Respect to Doctrine or Discipline, to intreat each others Advice, Judgment, and fraternal Assistance ; and thus, howsoever dispersed or distressed, were united under Christ their Head. But in the seventh Century, the Bishop of *Rome* having substituted himself Vicar of Christ and universal Bishop, (as if Christ, like an Epicurean Deity, was too much taken up with the Beatitudes of Heaven, to attend to the Business of his sublunary Kingdom,) was pleased to ease the Christian World of thinking and reasoning about Religion, and first to insinuate, then to dictate, and afterwards to obtrude by Threatenings and Censures, what ought to pass for their Belief and Practice.

No sooner therefore was *Henry VIII.* roused, by a Sense of the Imbarassments of his Realm and Family, from a Lethargy which had long been imposed on Princes by this Vicar of Christ, as a Temper best suiting the Dignity of the Crown, equally conducing to their Peace in this Life and Happiness in the next, than he was excommunicated for his unprincely Presumption in thinking for himself.

And it is not to be wondered, that Writers should be compelled to traduce to all Posterity the Memory and Character of a mighty King, upon whose Soul and Body eternal Perdition was long since impiously denounced. Wretched is the Lot of Writers, compelled or purchased to support Tyranny by Lies ! and my Catholic Author, whose Hand has deviated from the Line of Truth, Manners, and Decency, is justly to be pitied ; since the Repetition of exploded Falshoods, is not likely to be the Work of a willing Pen.

Neither are our Catholic Gentlemen altogether unaffected. — Those, who enjoy the Lenity of this Government, Connivance at the prohibited Exercise of their Religion, and a Forbearance of the Execution of many penal Laws, in return for unrelenting Severities upon Protestants in popish Countries, cannot but be apprehensive, that this public Insult upon the Honour of the Nation, may call down an heavier Animadversion upon this Specimen of catholic Gratitude, than a feeble Essay from a private Hand.

Is it decent to intrude into the Privacy of Princes or Popes, to watch for their Inadvertencies, and chronicle their Lapses in the Hours of Retirement or Relaxation? Would not catholic Communion be very precarious, if good Catholics were to change their Religion as often as they discover Indiscretion in their Priests?

But the Merits of the Separation ought to stand or fall upon two Points. 1. With the Evidence of a Right in this Church to govern itself; or, of a Right in the universal Pastor to superintend it. Or, 2. With Proofs of the Utility or Inutility of papal Government; if that is considered as founded, not upon any original Right, but in the Consent and Sufferance of the Nation.

Are not burthenfome Innovations to be reduced, or hurtful Disorders in Religion to be reformed, till there is an End of all Intermixtions in the Piety of great Men?

But the Observations of this Historian upon the State of this Church, after it had resumed its Independence, are still more exceptionable; especially his Aggravations of the Restraint put upon the Synod, and of every Variation from ordinary Forms, (Forms, in the Accomplishment of beneficial Revolutions, superseded by Necessity,)

Necessity,) into Trespasses against Religion, Justice, and Humanity; and his pointing out the want of a regular Institution, and Order of ecclesiastical Discipline, as a Document to Protestants of their Disadvantage in the change of Government.

What Pretence hath a catholic Historian to intervene in the domestic Oeconomy of a protestant Church? The reasonableness or unreasonableness of Separation, is a debatable Question between Protestants and Catholics, to be decided by Transactions preceding, not consequent to that great Event: Therefore the whole Series of his Observations upon the progress of the Reformation from 1533 to 1688, are so many Digressions from his proper Subject and Province, and disingenuous Attempts to disunite Protestants amongst themselves. But the Cause of Protestantism is not in the least affected by those Reflections, if true. What if there are some Defects in the Order and Discipline of a Protestant Church? Protestants profess no Perfection in Externals, nothing more than a Disposition to make them as perfect as they can, when Time and Opportunity shall admit.

Imperfections in their Forms will continue excuseable, till Intrigue or Violence are used to maintain them, and Legatine Fines shall be practised in that Place where primitive Simplicity and Candour ought to shine.

However, since the catholic Historian hath endeavoured to scatter the Poison of Sedition through a Length of History, it may be expedient to follow his Trail with suitable Antidotes.

Henry VIII. had now a new Province upon his Hands; the Weight of Religion added to the Cares of civil Magistracy.

In what Condition he found the Church, hath been related at large, *viz.* The Canons, in Part repugnant to the Laws of the Land, in Part over-burthenfome to the Subject; great Complaints made in Parliament against Ecclesiastical Courts; greater in Synods of the Clergy against the Courts of the Archbishop, as equally injurious to private Rights and public Discipline.

The Measures therefore which *Henry VIII.* and *Edward VI.* took to reduce these Disorders, are first to be stated; and then an Inquiry into the Principles of the Reformation will be more orderly and effectual,

I. It has already been observed, that *Henry VIII.* was empowered to name Commissioners to examine the Canons, in order to select such as were meet to be retained, from the Remainder that should be deemed inexpedient; and, as that Discrimination could not be completed within that Session of Parliament, it was provided, that the Canons in being, the miscellaneous Body, some perhaps useful, "others over-much onerous," should indiscriminately be executed as heretofore, till the Commissioners had gone through the great Work; so that the Church, during this Interval, was to stand under a kind of Interim, or provisionary Settlement.

Melancthon, fearing that the Pope might take Advantage of this Respite of the Extinction of the Canon Law, to regain his Authority, or that the pontifical Authority would be retained or established in some other Hand, writ to *Henry VIII.* to forward the Execution of the Design, *De Emendatione Legum*; telling him, "*Mirum esse, Auctore abusuum ejecto, ipsa tamen Venena retineri, in quo illi ipsi, aut illorum Imitatores*"

" *tatores aliquando revocaturi Potestatem Romani*
 " *Episcopi videntur, &c.*

After due Time spent in this Review, a new System of Ecclesiastical Laws was at length compleated; and *Henry VIII.* approving it, prepared a Letter, directed to the Bishops, Abbots, Clergy, Dukes, Marquesses, Earls, Barons, Knights, and all other his faithful Subjects, to recommend it to their Observance; but his Death anticipated the Broad Seal.

Preface to the
Reformatio
Legum.

The same Design was resumed by *Edward VI.* under whose Protection was avowed the Discovery of many Corruptions in Doctrine, which, when the Scriptures were searched in the former Reign for another Purpose, that is, for examining the Foundation of the Pope's Jurisdiction, in order to unvail his Iniquity in the external Regimen of the Church, had opened themselves to *Cranmer, Latimer*, and others, about three Years after the Act of Abolition; but were not then ripe for Publication.

Life of Cran-
mer, by
Strype.

Soon after his Accession, came out the Book of Homilies, as likewise Articles of Injunction; and in his second Year the Service-Book reformed, wherein the Office for *Lent* sets forth,
 " That there was a godly Discipline in the primitive Church; that this Discipline is not exercised at present in the Church of *England*,
 " but that it is much to be wished it was restored."

And the Sincerity of this Wish, with respect to reforming the Discipline as well as Doctrine of the Church, was testified by the Application of the Clergy in Synod for a Reform of Discipline, according to the Plan of *Henry VIII.* Neither was their Application without Effect, for in 1549 an Act passed to empower the King to nominate thirty-two Commissioners to review

Concil. v. 4.
P. 15.

the Canon Law, reciting the Necessity of this Work, as well for abolishing the Power of the Pope, as for the necessary Administration of Justice to his Subjects. Which last Reason was but a different Manner of expressing what was alledged in 25 *Henry VIII.* "That the
" Ecclesiastical Constitutions were over-much
" onerous."

But when *Cranmer*, *Peter Martyr*, and others, nominated by the King, had laboured with great Application upon, and at length finished this Work, it pleased God to take to himself this pious young Prince, before he had put the finishing Stroke to it.

Strype's Ann.
v. 1. p. 58.

When Queen *Elizabeth* took in hand the Reformation, some thought it adviseable to begin here; and accordingly a Motion was made in her first Parliament for appointing the thirty-two Commissioners to review the ecclesiastical Law; probably it was thought too large a Step for the slippery Condition of her first Year, and so was not then complied withal. However, the want of a Plan of Discipline was sensibly felt in the slow Progress of the Reformation; therefore in the Parliament of 1571, when Religion was fully reformed in doctrinal Points, and sufficiently established against the attempts of Papists, at Home or Abroad, Archbishop *Parker* promoted the Review, Mr. *Norton* moving for it in the House of Commons, and Care having been taken, previous to this Motion, to publish the System of Laws, compiled by the Commissioners of *Edward VI.*

Strype's Life
of Parker.

Perhaps a Work of this kind might at that Time be thought the more urgent, as the Decrees of the Council of *Trent* were then spread into all Parts, from whence the Papists were furnished with Matter of Reproach upon the
Church

Church of *England*, for retaining many Corruptions and Abuses which the Catholic Church appeared to have reformed.

Protestants were then busy in taking Exceptions against the Decrees of this Council; and alledged, 1. That they were not the Decrees of a free Council, since the Pope was known to use undue Influence upon it, maintaining some Pensioners in it at stated Wages, and holding others in Bondage by Promises of Preferment. 2. Many Menaces were thrown out to intimidate forward Members. 3. Frequent Interruptions were given to Debates. 4. Long and arbitrary Prorogations were made, to procrastinate Business, and damp the Alacrity of the Council. 5. But the greatest Impediment to the Freedom of the Council came from a Claim of the Legates presiding in it, to have the previous Consideration of all Motions to be offered in Council, and the Privilege of propounding them.

It may be remembered, that the Grandeur of the Roman See was laid in the third Council of *Germany*, in 745, where the Acts passed, "*Consulente Bonifacio Legato.*" For though Popes soon after laid aside Decency, and without any Ceremony obtruded upon Synods what Decrees they pleased; yet the Legate was observed to dictate in Effect to Councils, whilst their Resolutions were taken under his Advice.

But the Method insisted upon by the Legates at *Trent* was more exceptionable; because it anticipated not only the Discretion of the Fathers, and the Advantage to be made of their private Sentiments, but the Judgment of the Council upon them. Such like Censures were passed upon this Council! therefore, if notwithstanding that these Exceptions were verified by the

A&C. Conc.

Trid. Sefs. 13.

De Reform. c.

1, 2, 3, 4, 6.

Bishop Burnet,

and Letter to

Dr. Lisle.

Demonstration of many Enormities being left unredressed at *Trent*; it was notorious, that the Trade of Doctors-Commons held Protestant Bishops under many Restraints, as to the Exercise of Discipline, and Discharge of their pastoral Care, from which the corrupt Council of *Trent* had set Catholics free; this might well stimulate Archbishop *Parker* to endeavour to remove the Ground of so disadvantageous a Comparison.

II. But to return to the Reigns of *Henry VIII.* and *Edward VI.* which, for the sake of laying together several Motions made at different Times about the Review of the Canon Law, were passed over without touching upon some Incidents that ought not to be forgot, especially the Principles upon which the new Settlement was to be established.

It has been observed, that by 25 *Henry VIII.* (which is still in being) the Church was brought under a kind of Interim, or provisory Settlement, that was to be executed according to the Canons then in being, but to continue no longer Time than the King's Commissioners should take to prepare a more perfect System.

Yet soon afterwards it was thought adviseable, that during the Interim, the Deficiencies complained of in the ecclesiastical Constitution, should be supplied from certain Powers to be vested in the King, which was accordingly done by 26 and 37 *Henry VIII.* and these Statutes were so understood, as by Implication to transfer the Exercise of Jurisdiction from the Canonical Foundation, on which the 25 *Henry VIII.* had left it, to depend more directly and immediately on the Crown; and thereupon all Orders of Court, Excommunications and Absolutions, as well as other Matters of Form, were

were decreed in Virtue, not of the Bishops, but of the King's Authority.

The Forms used ran in the following Words.

" IN DEI NOMINE, AMEN. *Nos Johannes* In Lib. M. P.
 " *Permissione divina* • *Lincolniensis Episcopus,* ap. Reg. Linc.
 " *Auctoritate suprema Ecclesiastica excellentissimi* Bugduni.
 " *Domini nostri Regis Henrici octavi in hac Parte*
 " *fulciti, rite et legitime procedentes, Dominum*
 " *Johannem Huntingdon pronunciamus contu-*
 " *macem, et inobedientem, et in Pœnam Contuma-*
 " *ciæ excommunicamus, &c.*
 " *Nos Johannes Permissione divina Lincolni-*
 " *sis Episcopus, Auctoritate suprema Ecclesiastica*
 " *serenissimæ regię Majestatis in hac Parte fulciti,*
 " *te Dominum Robertum ap Griffith Rectorem*
 " *Ecclesię de Hitchin a Sententia Excommunica-*
 " *tionis alias per Nos in te lata, propter Violatio-*
 " *nem Injunctionum regiarum, absolvimus, ac Sa-*
 " *cramentis Ecclesię, Ministracionique eorundem,*
 " *et Communioni fidelium restituimus in his Scrip-*
 " *tis. In Nomine Patris, et Filii, et Spiritus*
 " *sancti.*"

Moreover, Processess for Institution ran in the same Style.

But nothing could exemplify the Change in Ecclesiastical Jurisdiction more than the Regulations under which the Cognizance of Wills and Administrations were brought : That is, Wills and Administrations, when the Inventory did not exceed the Sum of an hundred Pounds, were to pass in Diocesan Consistories ; but if the Inventory came to two hundred, then a special Commission took place. In short, special Visitors, or Commissioners, had the Direction of all Matters of Moment, whether Civil or Criminal, as the lesser Concerns were left to the Consistory Courts ; so that the Administration of the Church was, in many Articles which had be-
 fore

Concil. v. 3.
 p. 797, and
 Mem. Long-
 land, Linc. Ep.
 penes Reg.
 Lincoln.

fore been Matter of Complaint, diverted from the former Course provided for by 25 *Henry VIII.* and intended, at the first making of that Act, to have held during the Interim.

In the next Reign, other Notions of the royal Supremacy seem to have been entertained; that is, that the Supremacy, considered as the Fountain of Jurisdiction, implied no more than the Administration of Justice in Ecclesiastical Courts, by the proper Judges, the Archbishops, and Bishops, &c. subordinate to the Crown, and subject to regal Inspection in a legal Course of Appeal; and therefore, that the Investiture of the Crown with the extraordinary Powers cumulated upon it by 26 and 37 *Henry VIII.* did not supersede the ordinary Authority and Jurisdiction of Bishops, annexed to their Offices in their own Right, though these Statutes had been so understood.

And there is this Ground to suppose, that this was the Opinion entertained by *Edward VI.* in respect to the Supremacy, as stated by the 26 and 37 *Henry VIII.* because in the first of his Reign an Act passed, that all Ecclesiastical Process should hereafter be made in the Name, and with the Style of the King; which should seem a superfluous Provision, if the ancient and ordinary Authority of Ecclesiastical Courts was superseded by the Acts of *Henry VIII.* then in being, and the Bishops restrained before from using Process by their own Authority. For this would have been making a Law for the sake of a Sound only.

Be that as it may; in both Reigns, the Delegation of Jurisdiction from the Crown, tho' perhaps in different Terms, had the same Effect, viz. to prevent the Continuance of the bickerings between Archbishops, Bishops, and their

their Derivatives, to distinguish between minute Causes, whether civil or criminal, and others of greater Moment; leaving the first to the ordinary Courts, and committing the last to a special Authority, to be proceeded on according to the Weight and Exigence of the Case.

III. As therefore strict Uniformity is not to be expected in the Measures of an Interim Administration, which is calculated to proceed not upon general Principles, but upon a Consideration of present Exigencies, the Expedience of altering the ordinary Course of Government may be justified from a Recollection of the former Abuses in ecclesiastical Courts; as likewise the Expedience of the * supposed Restraint put upon the Synod, may be justified from an Estimate of the Weight of the monastic and conventual Clergy in Convocation, whose Prepossessions in the Interest of the Court of Rome might render their Councils suspected. But this Point will admit of a fuller Answer, viz. That the Intervention of *Henry VIII.* and *Edward VI.* in the Exercise of Jurisdiction, is warranted by the Practice of the primitive Church; and their Synods were allowed as much Liberty as the Clergy can justly claim, even in the most settled Times. For,

The Fathers received all forensic Authority from imperial Grants. The episcopal Audience by the Allowance of *Constantine I.* attended to Matters by way of Arbitration or Compromise between Suitors; then became enlarged by special Privileges, through the Favour of *Theodosius*, *Valentinian*, *Arcadius*, and *Honorius*; and at length attained to general Jurisdiction in all Causes of the Clergy, civil and ecclesiastical, in the Days of *Justinian*, and not before.

These

* Cath. Hist.
v. 1. p. 94, 5,
345, 354, 5, 6.
v. 2. p. 10, 31.

These Emperors likewise sometimes heard ecclesiastical Causes themselves; at other Times appointed Delegates or Commissioners to hear and determine them, and even admitted Appeals from the Decrees of Synods.

Neither have Synods their Jurisdiction intirely from Scripture, but are indebted to municipal Usages, and that Maxim of Policy, *viz.* The Expedience of attending to the Advice of Men skilful in their Profession.

Henry VIII. therefore did what all wise Princes have a Right, and ought to do; that is, used the Advice of his Clergy in the Affairs of Religion, and the Freedom of his own Judgment; nay, he was so far from putting any unwarrantable Restraint upon, or refusing Synods, that it would ill become the Moderation of the Clergy in any Age or Country, to claim more of the Ear of their Prince, than they appear to have had of his.

A brief Account of these Intercourses may not be unseasonable.

Concil. v. 3.
p. 770, 863.

In 1533, and 1542, the Synod petitioned for the Appointment of thirty-two Persons by the King to review the ecclesiastical Law. Upon their Petition, the two Acts of Parliament passed in 1533, and 1543, to enable the King to grant a Commission for that Purpose.

Ib. p. 803,
817.

In 1536, the Synod offer their Reasons to the King, against his appearing in a general Council indicted by the Pope; censure many erroneous Opinions; and agree upon Articles of Faith, which were afterwards published by the King's Authority; appoint the observance of certain Holidays, which soon after were established in Parliament.

In

In 1537, the Synod draws up the Institution of a Christian Man, and submit it to the King's Correction. Concil. v. 3. P. 831.

In 1539, Six Questions were referred by the King to the Discussion of the Synod; the Synod examine them, and declare their Conclusions to his Majesty; and the Act of six Articles was formed thereupon. Ibid. p. 845.

In 1541, the King signifies his Pleasure to the Synod, that they should consult about the decayed and declining State of Religion, and deliberate amongst themselves what proper Remedies ought to be applied; thereupon Consideration was had of Amendments in the Translation of the Bible, and of publishing the Lord's Prayer, Creed, and ten Commandments, in the vulgar Tongue; of establishing the Service-Book in Use at *Sarum*; of preventing Simony and Clandestine Marriages; punishing Blasphemers, Swearers, and For swearers; restraining long Leases, establishing the Grant of Chancellors Patents for Life, and payment of Tythes. Ibid. p. 860.

In 1542, the King signified his Pleasure to the Convocation, that they proceed to examine and correct all Mass-Books, &c. Ibid. p. 863.

In 1543, the Synod entered into several Deliberations about Matters of Doctrine; also about proposing a Bill for Recovery of personal Tythes, to be established in Parliament; and about an Application to the King in respect to Ecclesiastical Laws. Ibid. p. 869.

As this was the State of Things, through the Reign of *Henry VIII.* so there was less Room to complain in *Edward the Sixth's* Reign, either that Matters of Faith and Discipline were precipitately obtruded, or defined and determined without a fair and free Discussion. The Reformation made its Way by safe and slow

flow Steps; by Ventilation of the controverted Points in many Books and Comments upon the Scriptures; by Challenges of the Popish Clergy, and open Disputations; that Men might have Time to digest their Thoughts about Religion, and come to a serious Conviction of the Emptiness of their former Opinions.

Concil. V. 4.
P. 1, 15.

The Synod therefore convened in 1546, were not apprehensive of disobliging the King, in petitioning him, 1. For Allowance of free Debate. 2. That a Review be had of the Ecclesiastical Law. 3. For a Revival of the Books compiled by a Committee of Convocation, appointed to alter the Service Book, &c. pursuant to an Order from *Henry VIII.* 4. For an Admission of the Clergy into the lower House of Parliament. 5. For some Abatement of first Fruits, upon their Institution to Benefices, and a Remission of the Penalties on Recusants, and for a Royal Licence to make Canons.

The same Synod resolved, that the Communion was to be administered in both kinds; that the Clergy are not prohibited to marry, and that Vows of Celibacy are not obligatory. Also a Committee was appointed to prepare a Bill about the payment of Tythes in Cities.

Ibid. p. 35.
Fox V. 2. p.
666, 7, 8, and
701.

In 1548, an uniform Order for Common Prayer and Administration of the Sacraments was established in Parliament, having been debated and approved "by the Bishops and other learned Men, in their Synods, and Convocations provincial."

3 and 4 Edw.
6. C. 12.

In 1549, a Committee of six Bishops, and six other Persons nominated by the King, drew up a Form of Ordination, &c. Which pursuant to 3 and 4 Edw. VI. c. 12. was set forth under the broad Seal.

In

In 1551, in the upper and lower House of Heylin's Hist. Convocation, some Passages in the Service-Book, of the Reform. P. 107. in respect to the Administration of the Eucharist, &c. were taken under Consideration.

In 1552, Articles of Religion were agreed Concil. V. 4. upon in Convocation, and published by the P. 73. King's Authority.

And indeed there needs no clearer Evidence of the Moderation of the Principles of this Reign, than that the Settlement of these Articles, which seemed to require the earliest Consideration, was not entred upon of course, as the first necessary Step towards an effectual Reformation; but was postponed for five Years, till a free Discussion of all Points had settled the Judgment of the Nation, and all Ranks and Orders were not only weary of Popish Superstition, but satisfied of the Grounds and Reasons of the Change in Religion.

And this is the true Key to many Orders (which had an Air of too great Severity) for restraining Preachers and Preaching.

The Populace were impatient for a Reformation, and difficultly held in to keep Pace with the slow Motions of the State; but, to advance the Work, broke out into Riots and tumultuary Attempts upon Images and other Fopperies of *Rome*: Therefore it was expedient for the Government to interpose and prevent Incitations from the Pulpit.

This Reflection therefore naturally arises from a View of the State of the Church in the Reigns of *H. VIII.* and *Ed. VI.* viz. That if such an Affinity in the Measures for re-establishing this national Church to the original Plan for establishing Christianity in the Empire, is to be charged with Secularity; if Liberty of Debate, and conciliary Determinations in Synod;
if

if the Honour of free Access to the Royal Ear with Advice, Representations, and Requests of Remedies recommended as adequate to the Exigence of Religion, is described as a State of Slavery; it is evident, that the Ambition of *Rome* contends, not for a Liberty in the Clergy to advise, but to command the Crown; not to supplicate, but to domineer; not freely to exercise their own, but to controul and restrain the Judgment of others, even of Princes.

IV. There remains one other Point to be cleared, with respect to the Use of Excommunication.

Though the Exercise of Ecclesiastical Jurisdiction was found, under Royal Commissions, less burthenfome than the former Government, disturbed, as that had been, by Claims from the See of *Canterbury* on Diocesane Prelates, whose Subjects, like the Territories of an invaded Prince, felt great Inconveniences from that Legatine Croisade; yet the Discipline of the Church was observed to have too little Influence on Mens Consciences, since the Union of all Jurisdiction to the Crown, had the Appearance of being privative of all Authority in Episcopal Consistories, except such as was derived to them from the Commission of the Prince: And this was more visible in the Increase of Immorality after 37 *Henry VIII.* which authorized the Exercise of Jurisdiction by Lay Hands: Tho' in Fact, it had been exercised much in the same Manner, through all Parts of the *Latin* Church, ever since the thirteenth Century.

Summa Theo. *Thomas Aquinas*, who lived in that Age, had
 Suppl. 3. p. established a Distinction between the Key of Or-
 Quæst. 19. der, and the Key of Jurisdiction, (which origi-
 Art. 3. and nally were lodged in one Hand) making the
 Quæst. 22. first to respect the Conscience of the Sinner,
 Art. 2. and

and the Remission of Sin; and the latter to relate to outward Discipline, and the Privilege of publick Communion with the Church: And thereupon concluded, that Persons not being Priests, might decree forensic Excommunication; since that had no direct or immediate Connexion with Grace.

In the fourteenth Century, there were many Canons made against the Exercise of Jurisdiction by Lay-Men; but long before, several inferior Orders of Ministers had been introduced; of whom the Scriptures made no Account; and yet to these the Canons did not extend the Exclusion. So that Abbots, Monks, and even such as had received the first Tonsure only, were according to the pontifical Estimate in sacred Orders, and privileged to dispense Ecclesiastical Censures. There was a remarkable Instance of this kind in 1243, when the Prior and Monks of *St. Augustin in Canterbury*, excommunicated Bishop *Grofthead*, and several other Bishops of the Province, in the Vacancy of the Metropolitcal See. Lindwood p. 129.

Hereupon *Grofthead* writ to the Legate *Osbo*, to represent what Discredit was brought upon the Administration of the Word and Sacraments, by the prophane Intrusion of the Monks, into Offices not appertaining to their Order. For, says he, “these Monks, though in Orders, are, according to the Judgment of *St. Jerome* and *Dionysius*, inferior to Subdeacons, and have no Authority to exercise over others divine Ministrations or Discipline, which is wholly committed from above to the Bishop and his Clergy.” Opusc. Groft. p. 384.

Henry the Eighth therefore, and *Edward* the Sixth, finding Ecclesiastical Jurisdiction in this Course, thought it might as warrantably

be exercised by their Commission, as by the *Pope's* Dispensation to Lay-Men: So that no Attention was given by the Parliament of 1549, to the Application of the Bishops, to be restored to the former Use of Excommunication; though the Dissoluteness of the Times was imputed to Men's Disregard of the then Method of Excommunication, as appears in a Sermon by Bishop *Latimer* before King *Edward* the Sixth.

But neither the Parliament's Refusal to take in Hand this particular Complaint, nor any of the Acts passed about Religion since 25 *Hen. VIII.* nor any of the intermediate Commissions for the Exercise of spiritual Jurisdiction, nor the King or Council's Injunctions about Preachers, are to be understood as Evidences of the Sense of the Nation, with Respect to the Power of the Keys, or to what was fitting to be abolished, or ultimately to be established in the Church in any other Respect; because all this while, a general Review was going forward as well of these provisional Acts for carrying on the Government of the Church during the Interim, as of the preceding Grievances from the Canon Law, in Order to lay down an uniform System of Ecclesiastical Polity: The Plan therefore of the Reformation, that is, of the Disorders, that were thought to need Redress, and of the Remedies provided for them, is to be found in that System.

And therein Regulations appear to have been prepared, not only against the Prolixity and Tedioufness of judiciary Proceedings in civil and criminal Causes; against the Absence of Bishops from their Dioceses, and Remissness in the Exercise of Discipline, about the Admission of fit Persons only to Holy Orders, the Times of Ordination, and the Continuance of the Ceremony

remony of Imposition of Hands, against the Mis-Use of Excommunication in trivial Matters; and unsolemn Absolutions; against frivolous Appeals, or from interlocutory Decrees, or the Spinning out the Process of Appeal into Length, or admitting Appeals without Letters dimissory requested from the inferior Judge, or giving undue Molestation to the inferior Ordinary by the Judge of Appeal, and for establishing the Right of the Ordinary of the Place to the Probate of Wills, or granting Administrations against the Pretence of the Arch-Bishop's Court of Prerogative, and such like Innovations from the Canon Law :

But moreover, many Articles in the several provisional Acts of *Henry* the Eighth, and *Edward* the Sixth, viz. the 25 *Hen.* VIII. by Reform. Leg. which the Arch-Bishop's Court of Faculties was P. 15, 23, 30, erected, the 25, 26, 37. *Hen.* VIII. and 1 38, 40, 60, *Edw.* VI. about the Exercise of Ecclesiastical 61, 89, 90, Jurisdiction; and the several Acts of *Hen.* VIII. 100, 116, 117, 119, 122, 123, and *Edw.* VI. about the Recovery of Tythes, 136, 139, 144, 159, 161, 168, were some of them limited and further explained, 169, 180, 182, and others entirely superseded by new or different Provisions therein. 188, 258, 259, 282, 283, 289,

Herein also it appears, that though the Necessity of the Times had demanded the Intervention of the civil Magistrate in many Matters, that in former Ages fell under another Direction; yet when the new Scheme of Government was digested, and a full Explanation given of the Power of preaching the Word of God, administering the Sacraments, and the Use of Excommunication; the former of these Offices were then deduced, not from the King's Authority, but the Word of God, and the latter explained to be an Authority given of
 291, 295, 296, and Declaration of divine Institution of Bishops and Priests, by Cromwell and others, &c.

God to the Church for the Correction of Offenders.

* Concil. V.
3. p. 832.

* A Declaration to this Purpose had before been made in the Reign of *Henry* the Eighth.

Troubles of
Frankfort.

After this Account of the Measures taken by *Henry* the Eighth and *Edward* the Sixth, for the Supply of the acknowledged Deficiencies in the Ecclesiastical Administration, till a more adequate System of Laws about Religion could be prepared; and a short View of the Regulations intended in that more perfect System, which was prepared, but never established; the next Emergence which presents itself, is the Disagreement at *Frankfort* in 1554, amongst the Exiles who fled from *Queen Mary's* Persecution; some of them thinking, that since they were discharged from the Obligations of Law to use *King Edward's* Service Book, a more edifying Form might properly be introduced instead of it: Whilst others were of Opinion, that the Disuse of that Liturgy was then most unseasonable, as it would be a Matter of Disrespect to the unhappy Compilers of it, who were testifying their Integrity in the Reformation of Religion with their Blood.

This Debate branched out into Observations upon the State of Discipline; the Reformation of the Church of *England* was discussed, and charged from the Pulpit with Imperfection in Respect of Discipline; and, soon after, it became a Question, whether the Power of censuring Offenders was lodged in the Hands of the Ministers, or in the whole Congregation.

It appears, as has already been hinted, from the Office for *Lent* in *King Edward's* Service Book, that the Expedience of a penitential Directory was not at that Time overlooked. The Church of *Rome* had taken up secret Confession,

feſſion, and private Penance, in the Place of the primitive Method of public Cenſure upon Offenders. When therefore the Neceſſity of Confeſſion to the Prieſt was laid aſide, as not commanded in Scripture, it was foreſeen, that if the primitive Uſe of public Cenſure was not reſumed, the Means of outward Reſtraint would fall below any Standard, which hitherto had been uſed in the Chriſtian Church. Nevertheless, tho' the Compilers of the firſt reformed Liturgy foreſaw this Inconvenience, they reſpited the Proviſion of an adequate Remedy for it, to the complete Eſta bliſhment of Diſcipline, which was prevented by King *Edward's* Death. An irreparable Loſs to the Proteſtant Cauſe ! For the Exiles proceeding to eſta bliſh a Platform for themſelves, fell into different Sentiments about the Order of Correction ; One Part aſſociating Elders with the Miniſter for his Aſſiſtance in the Exerciſe of Diſcipline ; the Other veſting the Power of Cenſure in the whole Body or Congregation : And their Diſapprobation of each others Scheme, as well as of the former Government by Biſhops, ran to ſuch an Height, as gave Beginning to the Preſbyterian and Independent Plans, which ſtill exiſt ; and demonſtrate the Danger of departing from primitive Practice, even in Matters that are not the Fundamentals of Religion ; ſince the Foundation of theſe fatal Diſſenſions amongſt Proteſtants, was laid in the Difficulty of reſuming the Exerciſe of primitive Diſcipline, after it had been long corrupted by many papal Devices and Innovations, in the Dreſs of Canon Law.

V. In the mean time Queen *Mary* was taking large Steps towards re-eſta bliſhing Popery : All the Laws of *Henry* the Eighth, and *Edward*

the Sixth, against the Pope's Supremacy, were repealed at once; and lest that should seem to countenance the Disorders complained of, previous to the Separation from *Rome*, a Zeal was pretended for removing many Abuses, (such as Excommunication for trivial Matters, Neglects of Duty by the Clergy, Simony and other enormous Crimes, Non-residence in Bishops, the Want of Schools, and of due Attention to Literature, and the Education of Youth, the Exorbitance of Ordinaries, clandestine Marriages, &c.) equal to what had appeared in the former Reigns.

Concil. V. 4.
P. 96. 97. 122.
125. 132. 157.
158. and to
168.

Besides the Re-settlement of the Polity of the Church, the Catholic Religion was also to be purged from the Errors that had lately crept into it; and, for Forms sake, a Convocation was to be called to effect this great Design, tho' the chief Hopes of Success were laid in a Reduction of the Clergy to a Dependence on *Rome*, by reducing them to a State of Celibacy; and, in the Extirpation of Heresy, not by synodical Conviction, or by Argument, but by the Punishment of Heretics in a speedier Course.

Strype's Mem.
V. 3.

Fox's Acts and
Mon. v. 3.
p. 19. to p. 29.

However, the Convocation was opened on the sixteenth of *October*, 1553, by a Sermon from *Harpsheld*, who gave therein a Specimen of the Connexion between a Spirit of Flattery and Detraction; for he bespattered his Brethren with many rascally Imputations, and embroidered another Person in the Synod with most fulsome Complements: After this the lower House was speciously told by *Weston* the Prolocutor, that they were to take this Opportunity to enquire into the State of Religion, and make proper Laws about it; and then he delivered two Propositions, concerning the Change of the Sacramental Bread and Wine into the real Body and

and Blood of Christ, to be debated at the next Session.

When that came, instead of entering upon an Examination of the Propositions, the Prolocutor called upon the House to subscribe them undiscussed; and the Servility of the Members was become so abject, that most of them subscribed implicitly, and without further Deliberation. But when Archdeacon *Philpot* was called upon, he said, "It was against Reason, "and Order of Learning, for Men to be called "on to subscribe, before the Matter was fully "discussed: That he was astonished to see "Men of Years and Abilities confederating "to support corrupt Usages; but that, since "there were many learned Men in the Nation "of a different Persuasion, he moved, that "they might be permitted to speak their Sentiments upon a Subject of so great Concernment, before any Thing was ultimately determined about it."

This being pressed with much Spirit, the Prolocutor *Weston*, who was a low, dull Fellow, either not being fully instructed upon this unforeseen Demand, or apprehensive of the disadvantageous Comparison that would be made, between the Candor used in settling King *Edward's* Articles by the Synod of *London* in the preceding Year, and the laying an absolute Restraint by this Synod, on the Liberty of Debate, complied to have a Day assigned for taking these Points under Consideration; but, when that was come, *Philpot* had scarce begun his Observations, before *Weston* enjoined him Silence; and when he resumed his Discourse, he was again and again interrupted: "Shorten your "Argument, or hold your Peace, or I'll commit you to Prison," says the unscholar-like

Fox's Acts and
Mon. v. 3.
p. 19 to 29.

Fox's Acts and
Mon. v. 8. p. 19 to 29.

insolent Prolocutor. Wherewith *Philpot* not being content, said, "Master Prolocutor thinketh he is in a sophistry School; where he knoweth right well, the Manner is, that when the Respondent perceiveth he is like to be enforced by an Argument that he cannot answer, then he doth what he can by Cavillation and Interruption to drive him from the same." So that, it being found difficult to restrain all Freedom of Speech, so long as the Convocation was to put on a Face of consulting about Matters of Religion, the Queen was advised to interpose, and accordingly dissolved the Convocation after the sixth Session, before they had come to any Conclusions.

Concil. v. 4.
p. 88.

There stands upon the Acts of the Synod, this remarkable Entry, "*Quod Magister Philpot, propter Ignorantiam, Arrogantiam, Insolentiam, ac Pertinacitatem, ad disputandum non est ulterius admissus, nisi in Causis civilibus.*"

That is, tho' the Prolocutor made no scruple to divest *Philpot*, as an obstinate Heretic, of the common Privilege of Humanity, namely, the Exercise of Reason, and Free-speech for the Maintenance of Truth, and the Word of God; yet in civil Causes no Restraint was to be put upon him; probably for this Reason, lest the Laity, on account of their Interest in Testamentary, Matrimonial, and Beneficiary Matters, as also in the Rules of Practice for deciding Suits pending thereupon in ecclesiastical Courts, should take Offence at being defeated in their Expectancy of synodical Redress in these Particulars.

The Queen thus finding that popish Corruptions were not likely to gain Strength or Reputation in a free Synod, dismissed the Clergy upon the thirteenth of December 1553, but the Reformation

Reformers making no Scruple to lay before the World the disorderly Behaviour of the Prolocutor and others in the Course of their Dispute in Synod (by which the violent and tumultuary Practices of the popish Clergy were put into the Scale against the Candor of Protestants,) another Convocation was assembled in 1554, to hold a public Disputation with *Cranmer*, and his Fellow-Prisoners at *Oxford*. Concil. v. 4. p. 94.

Here again enthusiastic Zeal, aggravating the innate Insolence of Mr. Prolocutor's Temper, got the better of his Discretion, and broke out into great Indecencies of Expression against the Protestant Disputants, into impertinent Diversions and clamorous Interruptions, proper Preludes to the more fiery Trial they were soon to undergo.

In short, to charge undue Confinement on Protestant, and assert the Freedom and Regularity of popish Councils, as the Catholic Historian hath, is to write with a Pen superior to the Force and Power of Evidence: For in all History, there are no Incidents more clearly attested, than the various Tricks practised by the Court of *Rome* on Councils; to anticipate, prevent, and elude just Applications; to corrupt the Fathers by Promises, or intimidate them by Threatenings; to over-bear Debates, and defeat the just Rights of Mankind to free Audience.

Before the Convocation met, the Queen sent an Order to Bishop *Bonner* to proceed summarily and with all Celerity, pretermittting all judiciary Order and Form, to amove and deprive all Persons from their Benefices, who, contrary to the State of their Order, had married, or used Women as their Wives, or otherwise slanderously disordered or abused themselves. Soon after
several

several other Commissions were issued by the
 Concil. v. 4. Queen, for trying the Bishops consecrated in
 p. 118. 119. King *Edward's* Reign, for repressing Heresies,
 141. 152. 173. inquiring after Persons who absented from Con-
 fession or their Parish Church, or the Authors
 of heretical Books, Letters, Rumors, or Tales,
 or the Bringers in, Utterers, Buyers, Sellers,
 Readers, Keepers, or Conveyers of any such
 Letter, Book, Tale or Rumor; all which Per-
 sons were to be proceeded against summarily
 and *de Plano, ac sine strepitu et figura judicis*.

Here are some Points, that cannot but
 command Attention; first, that after the Re-
 peal of the Acts against the Pope's Supremacy,
 the Queen's Commission should be used for Cor-
 rection of spiritual Offences; and, secondly,

* Summary Methods were
 allowable in other Causes, but
 subject to Appeals, from
 which an heretical Prosecu-
 tion was exempt; and, on
 that Account, were seldom
 practised in common Pro-
 cesses, as being more liable
 to Pretences of Grievance,
 which furnishing Matter of
 Appeal, would protract, ra-
 ther than expedite Justice.

that whilst * other criminal Causes
 were left to pass thro' a Length
 of forensic Discussion, a great Va-
 riety of dilatory Pleas, Excep-
 tions, and Modes of artificial At-
 tack and Defence, so speedy a
 Process to Sentence should be used
 in the Prosecution of Heresy,
 falsely so called; which the Church
 might be prompted to suppress,

not only by the Principles of misguided Con-
 science and Justice, but by the Motives of
 Interest, and the Rivalry of a gainful Re-
 ligion.

From whatever Impulse these expedite Pro-
 secutions were carried on, it is not to be doubt-
 ed but that they were put into this Course
 about 1408, as most effectual for accomplishing
 one or other of these Purposes; and consequent-
 ly the Popish Hierarchy must at the same Time
 have been convinced, that the ordinary Method
 of proceeding against other Delinquencies, was

Lindwood's
 Provinc.

too dilatory and prolix, too precarious and liable to Subterfuge, to answer any other End, than the Increase and Accumulation of Fees ; since where they were in earnest to punish, they had no Aversion to Royal Interposition, nor to a speedier Passage to Justice. Thirdly, Queen *Mary* and King *Philip* issued thirteen several Proclamations, Letters, Articles, Orders and Commissions about Matters of Religion, each of which gave a further Specimen of Popish Insincerity.

Concil. v. 4.
p. 86, 88, 93,
102, 109, 118,
119, 128, 130,
140, 147.

For *Gardiner* had justified his Non-Conformity to the Orders and Injunctions of King *Edward's* Council, upon this Principle, " That the ecclesiastical Administration was settled by Act of Parliament in King *Henry's* Reign, therefore Injunctions by the Council about Religion were against the Constitution."

Fox, v. 2. p.
1, &c. and
Burnet's App.
v. 2. p. 112.

But the Conclusion would not hold ; for the Injunctions of *Edward VI.* were warranted by Law.

Henry VIII. had no sooner begun the Foundation of a legal Fabric, to fill the Place of the Pope's exorbitant Pile, than great Difficulties were discovered in the Execution of the Plan ; therefore to enable him to carry it thro', it was enacted, That the King's Proclamations about Matters of Religion should have full Authority, &c. So that these Acts legitimated the Orders of Council, during the Non-Age of *Edward VI.*

31 Hen. 8. c.
8 & 34.
35 Hen. 8.
c. 1.

Yet, when all the Acts against the Pope's Supremacy were repealed, and consequently those, which authorised the Injunctions of the Crown in Matters of Religion, *Gardiner* and other good Catholics, made no Scruple to use the Proclamations of a Catholic Prince (which then were Arbitrary) to restore Popery, tho'

1 & 2 of Phil.
and Mary.

he

he had declined obeying them under a Protestant Prince, whilst they had the Sanction of an Act of Parliament.

However, *Gardiner's* Observations on the Capriciousness of an incomplete Settlement of Religion, ought never to slip out of the Memory of those, who are Friends to the Constitution, till the Design of a legal Settlement of Religion is perfected. What Steps were taken in the following Reign, come next to be related.

VI. Queen *Elizabeth* differed from her Sister *Mary*, not less in her Maxims of Ecclesiastical Polity, than in her Principles of Religion; but before this Reign is entered upon, it may be proper to recapitulate briefly what has occurred from 25 *Henry VIII.* viz. “ That there was no
 “ settled Order of Government in the Church,
 “ from that Time to the Death of *Edward VI.*
 “ but an Interim only; under which the Synod
 “ was wont to interpose its Advice upon Eccle-
 “ siastical Matters of Moment, which were for
 “ the most Part administered by extraordinary
 “ Commissions from the Crown, or according
 “ to Orders of Council, Injunctions, Instruc-
 “ tions, or Proclamations. That as to other
 “ Causes of less Consequence, which were left
 “ to inferior Courts, they were proceeded upon
 “ according to the ordinary Course of Law, so
 “ far as that was not altered (as in many Re-
 “ spects it was) by Statutes, or Implication
 “ from Statutes, and Edicts of the Crown.
 “ That the former Competitions between the
 “ Archbishops and Suffragans, &c. being thus
 “ put into Suspence, no more Complaints
 “ were heard of the Prolixity of Suits, or of the
 “ burthensomeness of testamentary Cognizance,
 “ or Vexation from Appeals, but yet the Dis-
 “ cipline

“ cipline of the Church, under an Administra-
 “ tion almost secular, was found to have but
 “ little Influence upon the Lives and Con-
 “ sciences of Men. That in the mean Time
 “ a System of Laws was preparing, and at last
 “ compleated, wherein due Solemnity was
 “ preserved in the use of Excommunication, Ab-
 “ solution, and other Censures, and a more ex-
 “ pedite judiciary Form of Practice prescribed
 “ for Courts, unnecessary Interruption by Ap-
 “ peals restrained, useful Regulations appoint-
 “ ed as to Faculties to be granted by the Arch-
 “ bishops Courts; and for the further Ease of
 “ the Subject, and Maintenance of Diocesan
 “ Jurisdiction, Testamentary Cognizance was
 “ limited to the Ordinary of the Place; that
 “ the Establishment of this System was prevent-
 “ ed by the King’s Death. Lastly, that Queen
 “ *Mary* repealed all the Statutes, by which this
 “ Method of Government was introduced, yet
 “ retained the Exercise of Royal Supremacy in
 “ Ecclesiastical Causes, by special Commissions,
 “ Injunctions and Proclamations.”

Soon after Queen *Elizabeth*’s Accession, the
 Pope’s Supremacy was again abolished; and
 by the Revival of 25 *Henry VIII.* the Ecclesiasti-
 cal Constitution again restored to the Interim,
 in which *Henry VIII.* had placed it, at the Con-
 clusion of a busy Session of Parliament, till he
 had more leisure to review and reform it; and
 as the Queen’s Supremacy was then understood
 to imply no more in itself, than the Execution
 of Justice in Ecclesiastical Causes, by the proper
 Officers of the ordinary Courts, subject to the
 Authority and Controul of the Crown; the Bi-
 shops and other Prelates resumed the Exercise
 of Jurisdiction, not by Delegation from, but
 in Subordination to her Majesty, and as annex-

Hale’s Analys.

p. 30.

ed to their Offices primarily and originally in their own Right.

The Church was now in Appearance more at Liberty to exercise it's spiritual Functions, than it had been in the Reigns of *Henry VIII.* and *Edward VI.*; during which it seemed to be merged into the civil Government. Nevertheless, this Appearance of an Advantage was much abated, by a Sense of the burthensomeness of the Canon Law, the Inability of Ecclesiastical Courts for Dispatch, and the subsisting Competitions between the higher and lower Jurisdictions, which severally remained in the same undecided Situation, as furnished Matter of Complaint from the twelfth Century. When therefore the Canon Law was thus brought again into fuller Practice, though only as a provisional Plan of Discipline, yet no sooner were Things found in the Course that had been used before the Separation from *Rome*, and the Canons executed as heretofore, than the old Complaints against the Government of the Church were renewed, and hearkened to with greater Attention, as they were countenanced by the Exiles, who on their Return were in great Esteem, on account of their Piety, Learning, and Sincerity.

Parker, Grindal, Whitgift, and *Bancroft* were very attentive to all such Motions, and frequently called upon the Bishops and Clergy, and lower House of Convocation for Information about the State of the Church; in Consequence of which, Orders were occasionally issued from the Synod to the Ordinaries thro' the Province, touching the Execution of the Laws in being: And tho' inferior Courts had no Ability to do much, yet the Eye and Countenance of the Synod increased their Authority — an Authority very

very precarious in its Event ; because so long as the former Interferings between Courts subsist, and their Rules of Practice continue uncorrected, their Activity might render them the more Offensive, as no Discipline is less Exceptionable, than an oppressive Administration.

To prevent the Necessity of repeating the same Occurrences, which come over again and again thro' the Reigns of Queen *Elizabeth*, King *James*, and *Charles* the First, it may be proper to lay these three Reigns together, so far as the same Measures were observed therein, or the like Complaints made against the Government of the Church.

To the Parliaments as well as Synods of these Princes, frequent Applications were made about Discipline, Reformation, and a regular and learned Clergy ; but the Points more particularly pressed, were, against the Abuse of Excommunication, for twelve-penny Matters, and by Lay Officers ; against the Longsomeness of Suits in ecclesiastical Courts ; against Appeals from interlocutory Decrees in Causes of Correction ; against Non-residence of Bishops, and their Commendams ; against great Disturbance in every Diocese about *Bona notabilia*, and the Prerogative Court of *Canterbury* ; against metropolitical Visitations, and for Licences of Marriage to be more sparingly granted. But the Authors of the Admonition to Parliament, and especially *Cartwright*, distinguished the Court of Faculties as the most exceptionable ; probably on account of its Parentage, since they were extreme against every Thing, that had any relation to *Rome*, from whence this Court was planned.

VII. Pope *John* the Twenty-second erected a Court of Chancery about 1316, for preparing the Forms and settling the Price of the Facul-

Sir Simon
D'Ew's Jour.
Strype's Ann.
Parker's,
Grindal's, and
Whitgift's
Lives.
Concil. v. 4.
Fuller's Ch.
Hist. London
Petition in
1640. Rush-
worth, v. 4.
Art. 9, 13, 20,
23, 24, 28.

Taxa Cancel-
larie apud Du-
Mont. p 1664.

ties, that were to be set to Sale at *Rome*; and a Table of Fees under the Name of *Taxa Cancellaria Romana*, was formed for the Use of the Datary, Penitentiary, Scribes, Notaries, and Solicitors in that Office.

L'Enfant.v.2.
p. 189.

Offence was soon taken at the Establishment of a public Exchange, to merchandise not only Order, Discipline, and ecclesiastical Regulations, but also Truth and Morality for Faculties purchasable at a Market Price: And the Council of *Constance* entered with Zeal upon a Reformation of it about 1416; but the Fathers received Intelligence, whilst they were labouring that Scheme, that *Martin* the Fifth, their Pope elect, had begun his Pontificate, with a Reinforcement of the Rules of this mercantile Chancery.

Brown's Fascic.
v. 1. p.
354, 5, 6, 7,
and,
Taxa Cancell.
apud Du
Mont.p.1664.

In 1516, *Luther* transmitted his Exceptions to *Leo* the Tenth, against the Schedule of Fees exacted by his Preachers of Indulgences; and in 1523, the Princes of *Germany* sent a Remonstrance to Pope *Adrian*, *De Regulis Cancellariae papalis*: For *Pius* the Second, or *Leo* the Tenth, not content with the former Rates, had raised the Price of these Commodities.

But Complaints of this Kind were fruitless: For it was known at *Rome*, that the State of Religion, as well as the Administration of ecclesiastical Jurisdiction, stood in need of a dispensing Power: The Pope was therefore not to be prevailed upon to abate the Perquisites of an Office, to which the World was indebted for inward Peace and outward Accommodations.

The Prohibition of Marriage to the fourth Degree, and the Occasion of a spiritual Relation to Sponsors at Baptism, were the common Law of the *Latin Church*; and could not but give

give occasion for frequent Applications to the Apostolical Chancery.

Besides there were numerous Suits for Absolutions from enormous Offences, from voluntary Vows, involuntary Oaths, and other distasteful Contracts.

Church-men likewise incurred great Variety of Irregularities on account of Defects in Birth, Members, and thro' Inadvertences as well as Faults, that could not be set right by any other Hand.

Here too Plurality of Benefices was allowed as some Relief for the Impoverishment of Vicarages by Impropriation: And tho' the Impatience of Bishops for Commendams and Translations cannot be supposed to equal the Cries of the poor Clergy for Bread, yet the Ear of the *Roman* Chancery was not less open to Petitions for Superfluities, than for real Wants.

As soon therefore as a Determination was taken by *Henry VIII.* to separate from *Rome*, it was judged expedient to provide for this Gap, which the Separation from *Rome* would cause in the ecclesiastical Constitution.

At the same Instant also another Emergence added to the former Considerations of the Expedience of a dispensing Power.

Henry the Eighth married *Ann Boleyn* on the fourteenth of *November 1532*, and she proved with Child before Sentence was given for the Nullity of the Marriage with *Queen Catharine*, or any determinate Answer could be got from *Rome* about it. Thereupon in the *February* following, was passed the Act for vesting in the upper House of Convocation, the final Determination of all Causes matrimonial, &c. then pending, or hereafter to arise, which might any Ways concern the King or his Heirs or Successors:

fors: And moreover in the next Sessions, the Act for empowering the Archbishop to grant to the King and all his Subjects, all Faculties, Dispensations, Compositions, Delegacies, Rescripts, Licences, Grants, or any other Instruments or Writings heretofore passed at *Rome*, in all Matters accustomed, and not repugnant to the Word of God, in as full and ample Manner, as if they had been obtained of the See of *Rome*.

But the sixth and tenth Sections of the last Act expressly refer to the Tax of the *Roman* Chancery; the sixth directing the Manner of issuing "All Faculties, the Tax for the Expedition of" which at *Rome*, extended to four Pounds: And the tenth sets forth, "That greater Sums" have lately been demanded for these Instruments at *Rome*, than be limited to be paid "for the same in the old Tax"; wherefore it is enacted, "That two Books be drawn, in" which shall be contained the Taxes of all "customable Faculties, &c. wont to be sped" at *Rome*." This seems to refer to the Increase of Fees by *Pius* or *Leo*, beyond the first Settlement of *John* the Twenty-second. Such was the Origin of the Court of Faculties, at which *Cartwright* was so much scandalized.

And Archbishop *Parker*, sway'd either by a Sense of the wrong Constitution of this Court, or by the Sentiments of the Fathers of *Constance*, or by the Authority of the Provision in the *Reformatio Legum* about several Faculties here grantable, or by the Invectives cast upon it from the Press and the Pulpit, resolved upon obtaining a Dissolution of it.

VIII. But whatever Share Ill-nature, and Faction, and personal Animosities might have in the Motions about Discipline, after the Non-Con-

Conformists began to feel the Displeasure of the Government sharpening against their Disobedience in 1565; yet, from what has been said, it is evident, that the first Complaints upon this Head had a deeper Root, and appeared in the World not only before the Disagreement amongst Protestants, as to Habits, or the sabbatarian and quinquarticular Controversy, but before the first Separation from *Rome*.

Moreover, *Beza*, *Gualter*, and other foreign Divines, detached from our domestic Feuds, and corresponding with Conformists here, recommended to our Church a Review of its Discipline. But the Divisions amongst Protestants which daily grew wider, increased the Difficulty of this necessary Work. The *Reformatio Legum* was now disrelished by many, as too imperfect a System of Government for a Church reformed. That excellent Plan had been drawn with a View to retrench popish Innovations, restore the ancient Model of Government, and accommodate the Discipline of the Church, as near as could be to the Order of the State, "*ut Ecclesia Reipublicæ accommodetur.*" Preface of the Reform. Legum.

For this Purpose, Diocesan Episcopacy was re-instituted in most of its primitive Rights, as heretofore exercised in due Subordination to the civil Magistrate, and secured from the Intrusion of Voluntiers in Discipline: And with these Rights Ibid. p. 15.

the classical or presbyterian Platform, then in Request, was not to be reconciled. So that, tho' the Parliament shewed a Disposition to remove Abuses in the Church, yet the Steps proposed to be taken, were disagreeable to the State of the Nation, and the Nature of our Constitution, in the Judgment of the Princes then upon the Throne.

Upon what Ground their Judgment might proceed, shall be considered,

First, the Platform was too rigorous and severe. The Nation had long disengaged itself from authoritative Restraints in Religion; and if Men were with Difficulty brought to bear the tenderest Observations upon their Lives, or any Approach towards pastoral Correction or Admonition, even in private, and conveyed in a friendly Dress, it was not likely they would submit to the severer Impositions of the presbyterian Form of Discipline. Mixt and popular Judicatories have always carried their Authority high; their Numbers are a Defence for the Rigor of their Conduct: But when to this was added, not only a firm Belief of the Juredivino-Right of Eldership, and of the divine Institution of presbyterian Ordination and Government, but a Persuasion of the

* Quippe distantes, non in hoc tantum ordinatas a Deo Civitates ac Magistratus, ut a Corporibus et Possessionibus Injuriae abessent, sed ut, quo more ipse jussisset, eo in commune coleretur, &c. Grotij Hist. Belgic. p. 41.

* Expedience of applying external Coercion to inforce religious Impositions; it would not be unnatural for a Constitution founded upon such Principles, to demand larger Measures of Duty and Compliance to their Injunctions, as well in respect to private Demeanour,

as to the public Establishment of the Worship of Almighty God, than the World was disposed in that Age to pay.

This Apprehension might be grounded upon the severe Exaction of Uniformity, wherever the Geneva Discipline prevailed, or on the growing Demands of further Indulgence to that Persuasion wherever it was tolerated; and became afterwards verified here, when the Parliament gave into the presbyterian Scheme; for no sooner was that established, than the Presby-

Brandt. & Grotij Hist. Belgic. p. 41, 57, 100, and Spotswood's Hist. of Scotland, Neal.

tery

tery began to assert the Expedience of Uniformity, the Unlawfulness of Separation and Sects, and at length refused to their Confederates, the Independents, not only a Comprehension, but also a Toleration of Liberty of Conscience. Neal's Hist. of Purit.

Neither was their Rigour less discernable in executing than in making Laws ; as might appear by a Comparison of the Measures of the episcopal Clergy towards *Henry* the Eighth in his three Divorces, from *Catharine*, *Ann Boleyn*, and *Ann of Cleve*, with the Difficulties thrown by the Classcal in the Way of the Marriage of *Mary Queen of Scotland*.

The dutiful Assistance which the former gave, to disincumber King *Henry*, need not be circumstantially detailed here : But the Process in Queen *Mary's* Marriage, being not so public, may deserve to be related.

Earl *Bothwell* having prevailed upon the Nobility of *Scotland* to sign an Instrument, importing their Approbation of the Queen's taking him for her Husband, the Queen soon after sent an Order by the Justice Clerk to Mr. *John Craig*, the Minister, to publish the Banns of Marriage. Upon which Mr. *Craig* answered, he could ask no Banns, especially such as these were, without the Knowledge and Consent of the Church : And the Matter being mentioned in the Session of the Church, after much Reasoning with the Justice Clerk, it was concluded, that the three next preaching Days, the Queen's Mind should be intimated to the People. The Minister declared, that in obeying their Desire, it should be lawful to him to open his own Mind as touching the said Marriage : And when he proceeded to publish them on the next preaching Day, he shew'd that he was injoined to do it,

Spotswood,
p. 202.

but that he held the Marriage between the Queen and *Bothwell* to be unlawful, whereof he would give Reasons, or cease to proclaim their Banns. For this he was called before the Queen's Council, where *Bothwell* expostulating with him, he answered, " First, That the " Church, in the last Assembly, had inhibited " the Marriage of Persons divorced for Adultery; and then insisted, that the Divorce " between *Bothwell* and his Wife, had been " obtained by Collusion; and lastly, that he " had committed Ravishment upon the Queen, " and was suspected of having murdered her " former Husband; and then gravely advised " him to desist from this Marriage, as he would " eschew the Wrath and Indignation of God." And upon the *Sunday* following, he publicly declared what he had spoken to the Council.

As to the second Point, the presbyterian Scheme was found to terminate, not in a meer Correction of Abuses in the ecclesiastical Administration, but with them to introduce Alterations, that might affect the ancient Balance of the civil Constitution.

For many Franchises and Jurisdictions being annexed to Prelacy, which have considerable Weight in the Scale of Government, it might be foreseen, that by spreading, according to these Schemes, into many Hands, Parcels of the Remnants of episcopal Power, already much impaired by metropolitical Defalcations of Diocesan Jurisdiction, and by the Dissipation of Church Lands and Revenues, Diocesan Episcopacy would become more impotent, and the Form of Church-Government more popular, than at any time the Nation had Experience of. The Bishops had originally their Seats in Parliament as ecclesiastical Magistrates. More-
over

over in their Power over the Clergy consisted their Weight and Influence. So that a Communication of their Jurisdiction, already too much curtailed, to Lay-Elders, [or even the making the Clergy dependent on the Justice of a Quarter Sessions for their daily Bread,] might affect the whole Poise of our ancient Constitution, as it would not only create a new Order of Magistrates with untried Powers, whose Influence in many Respects, especially upon elective Parliaments, could not be ascertained, but also lessen the original Pretence of Prelates to their ancient Seats in Parliament.

Even *Grotius*, who recommends the Use of Lay-Presbyters for some Purposes, subjects their Appointment to five several Cautions; amongst which are the two following. "1. *Ne id Munus affirmetur divini esse Præcepti.*" "2. *Ne quid illis tribuatur, quod ad Claves Evangelicas pertineat, &c.*"

De Imperio
sum. Pot. c. 11.

Thirdly, These Principles were suspected to be repugnant to the legal Supremacy of the Crown: And this Suspicion was confirmed, not only by Inferences from the Writings of the Puritans, but by their affected Disregard of all Edicts and Orders of the civil Magistrate about the Concerns of Religion, especially in *Scotland* and the *Netherlands*. *Grotius's* Evidence is so

Strype's An-
nals.

Spotwood.
Brent.

concise, that it may be given at large, without Danger of Tedioufness. Saith he, — "*Multi enim semel hac Opinione imbuti, divini Juris esse istud Regimen, eò deveniunt, ut summarum potestatum nullas aut exiguas esse credant in Ecclesia Partes, &c.*"

De Imperio
sum. Pot. c. 11.

And it is not improbable, but that the Progress of Demands in *France*, under the Colour of Toleration for Religion, had heightened the Attention of our Princes to Steps of that

Davila }
Thuan. } hist.

Kind. The *Hugonots* began with an humble Petition to be tolerated in the private Exercise of Religion, after their own Way. This being obtained, soon after they demanded the Use of Churches, for the public Worship of Almighty God. When that was complied with, presently it became reasonable, they should have Schools, to Educate their Children in the Fear of the Lord: It was granted. Then it was discovered, that the Exclusion of Men of their Persuasion from all public Offices and Trusts, was a sort of Punishment of them for Conscience Sake, and therefore they ought to be restored to the common Right of Subjects, viz. a Capacity for civil Offices: It was not to be denied. Thereupon it was observed that a Capacity for Offices was a meer Delusion, unless the Government would actually imploy the Men, whom they allowed to be capable of serving the Commonwealth; and so it was but equitable that a stipulated number of the Non-Catholics should be taken upon the Bench of Justice, and into the other Apartments of the Government. After they insisted on a Reform of Grievances in the Civil Administration; and then several walled Towns, Castles, and Fortresses to be put into their Hands for the Security of their Religion; and the Sum total of a Toleration to these Men, of Consciences truly scrupulous, amounted to a Partition of Empire with the grand Monarch.

Therefore, though there were many Things in our Ecclesiastical Administration, notoriously needing to be redressed, yet the popular Remedies, which these Princes apprehended to be fought in Parliament, did not suit the State of this Church and Nation.

The

The Union and Coherence between the several Parts of Government, made it a doubtful Experiment, whether the political Machine would continue to perform its former Functions, if, instead of regulating some of the Motions that were grown excentric, any of the main Springs should be broke or disabled; and to innovate upon a Constitution, under Colour of rectifying particular Abuses, might be a dangerous Enterprise; especially as many Gentlemen were suspected of entertaining these Motions for Reformation, out of dear Delight in an Opportunity of correcting the Petulance and Pedantry imputed to Ecclesiastics of that Age.

IX. Nevertheless, it must be owned, that this Way of Reasoning has often been used to cover and perpetuate Grievances, instead of removing them; and, in this Case, if the Princes who disapproved one Method of Pursuit, had not at the same Time pointed out Relief in another Course, there would have been some Colour for applying that Observation on this Occasion.

But that was not the Case, for in the then State of the Constitution, a standing Remedy was at Hand, and Complaints to Parliament, about particular Grievances in the Administration of the Church, were as unnecessary, as it would now be for a Creditor to petition the Parliament, instead of the Court of Chancery, against an Executor's concealing his Testator's Estate.

For, in Consideration of the Defectiveness of the ordinary Ecclesiastical Jurisdiction, the Crown was vested with an Extraordinary Authority to appoint Visitors and Commissioners, to use all Manner of spiritual and ecclesiastical Jurisdiction, Pre-eminences and Privileges; and

to

to correct, amend, and reform all Errors, Enormities, &c. whatsoever.

Whilst this Commission was on Foot, there was no want of Power to relieve, in any Ecclesiastical Emergence.

To illustrate this by Instances; first, Consistories were liable to Interruption by frivolous Appeals; but against the High-Commission there lay no Appeal.

Styve's An-
nals and Life
of Parker and
Whitgift.

Secondly, The Expence of Time and Money, and Loss of Business, in attending the Prerogative Court from remote Parts of the Province, about Wills and Administrations, and *Bona notabilia*, or the Court of Arches on Appeals, was an Occasion of Complaint; yet whilst there were royal Visitors or Commissioners in every Diocese, this Travel and Expence might be prevented by Resort to them.

Coke's fourth
Instit. p. 326.

Thirdly, The Rules of Practice in the ordinary Courts, rendered all their Proceedings dilatory, expensive, and precarious. But the High-Commission was speedy and expeditious; one of the Ends of its Erection, as Lord *Coke* observes, being this, that the Restitution of Religion required a more summary Proceeding, than was allowed by the ordinary and prolix Course of Law.

Fourthly, The High-Commission used to issue Injunctions and Orders in Matters, to which the standing Provisions of Law did not extend.

In short, the High-Commission was a kind of Ecclesiastical Court of Chancery; with this Difference, that as the Canon Law was more abundantly defective than the Common Law, so the former was vested with more extensive Powers than the latter has exercised.

These

These Observations are not meant to bestow Commendations upon a Court, against which the Nation has given their Verdict; but only to assign the Reason why little was done by Acts of Parliament, or the Canons of 1571, 1597, and 1603, towards removing many of the Grievances, that preceded the Separation from Rome. The Power for this Purpose was *pro Tempore* in another Hand, that is, the Crown: *Eliz.* was vested with an extraordinary Jurisdiction to provide for the occasional Exigences of Religion; and Queen *Elizabeth*, by discretionary Injunctions, Articles, Orders of Council, Instructions, and Commissions, supplied the Want of legal Provisions for the Government of the Church.

How far an Exertion of the Supremacy in that Way is warranted by primitive Practice, hath already been shewn; all that need further be added is, that if a Restraint had been put on Religious Inquiries, and the Synod not been permitted to meet and consult with Freedom in that Queen's Reign, such a Suspense would have been the least exceptionable, at a Season when the Heats and Divisions about Rituals ran so high, as to make it inexpedient for the Government to allow a Toleration to Non-Conformists.

But so remote was undue Restraint from the Maxims of this Reign, that the Synod was favoured with frequent Licences from the Queen to treat, debate, and conclude; and, as they made no Scruple to address the Queen upon proper Occasions, so her Majesty was pleased to receive their Addresses graciously upon Points, that were not thought agreeable to the Taste of the Court. *Concil. v. 4. p. 179, 293, and 308.*

And

And though no regular Plan of Discipline could be formed in Synod, till the Canon Law was reformed, (which the Heat of Faction made then unseasonable,) yet Matters of Faith and Doctrine were fully considered, debated, and concluded upon; and Subscription to the Articles agreed upon in Synod was afterwards enacted in Parliament; so that there is no part of the Catholic Historian's Observations,

Concil. v. 4.
p. 232.

* As Mafon, Courayer, and Brown have explained that Matter very perspicuously; it would not be decent in this Essay, to endeavour to add Light to their Demonstrations.

except his Revival of the Nag's-Head * Fable, more groundless, than his Imputations of illegal and uncanonical Proceedings in the Reformation within this Period.

Concil. v. 4.
p. 191.

Were the Catholics denied an Opportunity of free Conference? No, they were in 1559, invited to one, as the Donatists, Pelagians, &c. had been in primitive Times, but had the Prudence to decline a free, regular, and orderly Discussion of the Points in Difference, as knowing that the Church of *Rome* would not gain, nor the Church of *England* lose Credit, by a fair Disquisition into each others Constitution.--No, not by an Inquiry into the Dissolution of Religious Houses, &c. which is the most embarrassing Charge upon the Reformation, and ought therefore to have a Place in this Essay.

X. As the first Motives towards a Separation from *Rome*, are "ascribed to the Passions and " Lewdness of *Henry VIII.* so the progressive " Steps are imputed to that Root of all Evil, " Avarice. — To a sacrilegious Appetition of " the Spoils of Monasteries, and the Estates " of Bishopricks, devoted to the Service of " God.

" This

“ This was the secret Motive, that drew in,
 “ and continued to engage many to the Refor-
 “ mation.”

Instead then of scrutinizing the Secrets of
 Hearts, which are known to God alone ; let
 the Inquiry be, How far the Dissolution of Mo-
 nasteries by *Henry VIII.* and *Edward VI.* and
 the Seizure of their Estates, as well as the Ex-
 change of the Lands of Bishopricks, in the
 Reign of *Queen Elizabeth*, may be justified by
 parallel Instances amongst Catholics.

First, as to the Dissolution.

It is notorious, that when the Religious with-
 drew their Obedience from ordinary Govern-
 ment, to which they were originally subject ;
 and evaded the Vows of Poverty, which were
 entred into by all Ranks and Professions of
 Monks, the Peace of the State, as well as Cre-
 dit, Revenues, and Discipline of the Church,
 felt great Inconveniences by their being let loose
 from those Obligations.

So that, if their Support or Suppression was
 to be decided by the *Salus Populi*, that supreme
 Maxim of Policy, which regulates all Claims to
 the Favour or Protection of the State, by their
 Subserviency to public Welfare and Happiness ;
 if the Benefits to be expected from the voluntier
 Zeal and Piety of Monastics, influenced by a
 Desire of increasing the Revenues, or Power of
 their Order to preach whatever may captivate
 the Populace, without Regard to civil or eccle-
 siastical Magistrates, are weighed against the
 uniform Indeavours of a national Clergy, whose
 Conduct is ascertained by the Rules and Stan-
 dard of Law ; whose settled Maintenance sets
 them above all Temptation to affect Popularity,
 or gratify their Audience by Detraction and Ca-
 lumny on their Superiors ; it is not to be doubt-
 ed,

ed, but political Justice would pronounce for the Dissolution of these excentric Societies, whenever they interfered with the Rights of legal Communities, or the orderly Motions of Government.

And, upon the Crisis into which the Nation was brought by the Separation, the Monastic Interest, which adhered to *Rome*, fell under a very strong Contrast, not only with the Body of the Clergy, but with the Common-Weal; for the Powers of the several Orders were then so great, by the Weight of their Riches, Popularity, and factious Confederacies, that *Henry VIII.* seemed to be reduced to a Necessity either of suppressing the Religious, or of being controlled by their Party.

But the Equity of suppressing them, is not intended to be rested wholly upon the Rules of Policy, which in some Cases are very problematical; but shall be compared with resembling Precedents, and Practices amongst Catholics.

In 1413, *Charles VI.* of *France*, when the Friars had worked upon the Superstition of his People, and by various Frauds and Intrigues intercepted the Maintenance of the parochial Clergy; decreed, that the Religious should return to their Vows of Poverty, and then bestowed great Panegyrics upon the Piety of their Institution, and turned them, at the Request of the national Clergy, out of all their illegal Acquisitions, into a more disinterested State, than the hireling Parish-Priests had the Ambition to affect.

About the Year 1550, the Jesuits exhibited a Petition to the Parliament of *Paris*, for a Toleration; which being, after great Opposition, referred to a Convention of the whole *Gallican* Church, was complied with upon this express Condition,

Hospinian de
Monach. p.
255, 6, 7, 8, 9.

Hospin. de
propagat. Je-
suiticor.
Ut in hoc Reg-
no toleraren-
tur. p. 143.

Condition, that they should submit to the ordinary Ecclesiastical Government, and renounce all their Bulls of Privileges inconsistent with it. Ibid. p. 144.

But no sooner had they obtained a Toleration upon that Stipulation, than they acquired new Exemptions from *Rome*, in respect to ordinary Government and Tythes, grew rich, notwithstanding their Vow of Poverty, set up a Party in the Nation, formed the famous *Guisian* League (from which the *Scotch* Covenant was modelled,) and fomented a civil War. Ibid. p. 107, 8, 9, 180, 247, 170, 305, 148.

For these Misdemeanours the whole Order was banished in 1594, all their Colleges dissolved, and their Possessions moveable and immoveable were confiscated. D'Avila. Ibid. p. 153, 4, 253.

In 1607, the Jesuits were expelled from the State of *Venice*. The Senate of *Venice* finding their Taxes and public Duties very much impaired by Reason of the immense Purchases of Land and Houses by the Jesuits, which ceased to be tributary to the public Service on coming to their Hands, decreed, that no more Land should hereafter be amortised.

Hereupon the Jesuits solicited Pope *Paul V.* to compel the Senate to a Revocation of this Decree, under Pain of Interdict, which turned in the End upon themselves, the Senate proscribing the Jesuits for their Undutifulness. Ibid. p. 292, 3, 4.

In 1618, the States of *Bohemia*, in Resentment of the Disorders introduced into the civil and ecclesiastical Government by the Jesuits, dispossessed them of all the Colleges they enjoyed in *Prague*, and the other Cities and Towns in the Kingdom. Ibid. p. 298.

As for the Knights-Templars, it is sufficient barely to mention them; yet it may be proper to call to mind *M. Paris's* Account of them, Ibid. p. 67.
long

long before their Suppression in the Council of *Vienna*; namely, "That they had revolted
 " from their primitive Institution, withdrawn
 " due Obedience and Tythes from the Church
 " of God, and become troublesome to all the
 " World."

These Instances may suffice to prove the general Sense of the *Latin* Church as to the Inconveniences of a privileged Religion, and the Resolution of particular States to suppress such Orders as interrupted their civil or ecclesiastical Government. There was therefore nothing singular in the Measures of *Henry VIII.* and *Edward VI.* for the Commons had complained in the Reign of *Edward III.* "That the Church
 " suffered more from the Monks, than by all
 " the Jews in the World;" yet they, relying on papal Immunities, persisted in their disorderly Practices; so that the Severity of their Punishment in the End, will admit of this Apology, "That Dissolution is the only Means of Correction upon those, who refuse to submit to
 " the Justice and Discipline of their national
 " Church."

As to the Seizure of the Lands, &c. that Point is not to be abstractly considered, but only how far the Diversion of the Estates of Religious Houses to other Purposes, by *Henry VIII.* may be justified by the Sentiments of his own Times.

And it is certain that Alienations were from the beginning allowed in some Cases. For the Church having not for some Centuries a Subsistence in stated annual Rents, or in predial Possession and Tythes, it was found necessary to leave in the Clergy a Power of alienating their Goods; that, upon failure of voluntary Alms and Oblations, which were in all Ages precarious,

Cotton's Records.

Canon. Apost.
 34, 73.
 Afric. Cod.
 c. 33.
 Conc. Agath.
 c. 7.
 Concil. Car. 4.
 Concil. Carth.
 5. c. 4.

precarious, they might provide for their Wants and Necessities, by Sale of the Utensils, Plate, &c.

When such Exigences compelled the Bishops to take this extraordinary Course for their own and their Clergy's Support, the same Canons required, that the Sale or Exchange of the Possessions of the Church to be made by the Bishop, shall be approved by his Clergy, and in some Cases by the Metropolitan, without which it shall be void.

Thus a legal Course was prescribed for passing Alienations in Form. But as the best Constitutions have been destroyed, by Mens turning equitable Condescensions to Necessities, into Precedents for Deviations from legal Settlements, when no resembling Necessity subsists; so, after the State of the Church was altered, and a settled annual Subsistence provided for the Clergy ministering in the Offices of Religion; the Canons before-mentioned, that empowered the Bishops to exchange or sell the Possessions of the Church in Cases of Necessity, were strained to serve for Warrants to Alienations and Exchanges, where there was no Necessity of altering the original Appointment, or of changing the destined Use.

Thus under the Cover of primitive Practice, Appropriations of Tythes to Nuns, Monks, and several Military Orders, and likewise Privileges of Exemption from Tythes, bestowed upon Templars, Hospitallers, and Cistercians, (which were no less injurious to the ministering Clergy, than if these Revenues had been seized by Lay-force, and applied to secular Purposes,) were not considered as a Breach upon their original Dedication to God; because the Acts of Alienation or Exchange were passed according

to canonical Forms, and with the Consent and Approbation of the Ecclesiastical Administration.

The notion of Sacrilege was chiefly confined to secular Intrusions, such as the Imposition of Taxes, Seisures, and Dispossessions by the civil Magistrate, who was to look upon Ecclesiastical Estates and Persons as sacred or exempt from his Authority. But the Clergy considered neither themselves nor their Revenues, as sacred, in any other Sense, than as Privileged from secular Intervention, that is, they retained the Disposition of both in their own Hands, as much as if they had never been devoted to God or religious Purposes.

Taxa Cancell.
Rom. apud
du Mont.
Decret. Greg.
L. 4. Tit. 10.
c. de his quæ
fiunt a Prælato
absque Con-
sensu Capituli.

In the Tax-Book of the Apostolical Chancery, and penitentiary at *Rome*, there occur great Variety of Dispensations to the Clergy from the Obligations of their Order; and Leases, Mortgages, and Alienations of Ecclesiastical Possessions were valid, if the Methods prescribed by the Canons were duly observed by the Prelate and his Chapter, in granting away the Revenues consecrated to God and the Church. So that, though the Pope was so careful of Ecclesiastical Possessions, as to exact an Oath from Archbishops and Bishops, that they should not Alienate or Mortgage the Estates of their Churches, yet he often dispensed with their Oaths, and took Mortgages upon the Revenues of their Sees, for Payment of simoniacal Contracts.

Ant. Brit. p.
189, 212.

From this Practice, the following Observations arise.

First, That since according to the received Maxims of the Age, Tythes were held to be alienable from the ministering Clergy, upon whom they were originally settled for the Service of God, it could not be expected at the Re-
for-

formation, that those, who were misled by a long Train of Ecclesiastical Examples and Patterns, should run back into speculative Considerations of the Impossibility of upholding a Religion, depending on Institutions and positive Rites, without a competent Maintenance for the Ministering Clergy.

When therefore a Knight-Hospitaller was found possessed of a Portion of Tythes, it would scarce be thought a strain upon Conscience to substitute the Colonel of a Regiment in his Place; and a Court Lady might pass upon a Man of Taste and Breeding, for an Angel of the Gospel, as well as any Nun of the Order of *St. Bridget*; so that whatever was wrong in the Dissolution of Religious Houses, had its Root in the corrupt Practices of Ecclesiastics for the three last Centuries, who by using the Stock of the Church as Property at their Pleasure, had extinguished all Sense of the Obligation to abstain from Things consecrated to religious Services, or to provide for the decent Celebration of the public Worship of Almighty God.

As to the Disposition of Manors and other Estates, of which Religious Houses were possessed, they fell under a Consideration different from the appropriated Tythes. For Manors, Lands, and Tenements were not held as the Tythes of Parish-Churches are, in *Frank-almoigne* as the Property of God, antecedent to all human Appointment, and subject to no common Service or Imposition, but liable at Common Law by their Tenures to Forfeiture, Resumption, Seisure, or Entry from the Founder or his Heirs, (in whom the Fee remained,) upon Failure of the Service which the Order was bound to perform.

Concil. v. 2.
p. 320.

In 1309, it was represented to *Edward II.* in Parliament, as a Grievance on the Clergy, that the Lords of the Fee frequently entred upon the Lands given to Chuntries, if the Service to be performed happened to be omitted but for the Space of two Years. The King replied, "The Lords had a Right to do so, by the Law of the Land." Thirteen Years after, upon an Inquisition taken in *Leicestershire*, of Lands possessed by the Antecessors of *John Mowbray*, it was found, that upon the Forfeiture of the Knights Templars, the said *John* was seized of the Manor of *Balsale*, which *Roger Mowbray* his Antecessor had bestowed upon that Order.

But in the twelfth of *Henry VI.* this Point was more fully explained. It being foreseen, that some Motion would be made in the Council of *Basil* for Restitution of the Estates of the Alien-Priories, which had been seized by *Henry V.* the English Ambassadors were instructed to maintain before Pope *Eugenius* and the Fathers, the Lawfulness of that Seisure, by the ancient Customs and Usages of the Realm.

Reg. Chiche-
ley 11. f. 6.
333.

They were to insist, that these Lands and Tenements being given to religious Places, conditionally only, and for a certain and determinate Use, if the Donees neglected to fulfil the Condition, Design, or Use of the original Grant, the Donors or their Representatives might, upon such Default or Neglect, resume and repossess the forfeited Estates.

But a Transcript of Part of the Statute, styled, *De Terris Templariorum*, will set this Matter in the clearest Light.

The Council of *Vienna*, that in 1312, dissolved the Order of Knights Templars, decreed that the Estates belonging to it should be applied to other

other religious Uses ; and such was then the Influence of papal Suggestions, as to prevail upon the Parliament in 1523, to reuest the forfeited Possessions in a new erected Order of Knights-Hospitallers.

But immediately upon the Dissolution of the Templars, the Lords in Fee entered upon the derelinquished Lands, as their Escheats by due Course of Law ; and the Judges delivered it as their Opinion, " That by the Law of the Land, " they might with good Conscience retain " them."

The Statute is as follows.

" For that the military Order of Templars
 " ceasing and being dissolved, the Lands and
 " Tenements in Demesnes, Fees, and Services
 " of the Brethren of the same Order, which they
 " held in their Fraternity in the Realm of
 " *England*, in the Time of the same ceasing
 " and dissolution of the aforesaid Order, which
 " were holden of our Lord the King, and di-
 " vers other Lords in this Kingdom, were
 " seized into the Hands of our Sovereign Lord
 " *the King, and of divers other Lords of the Fees*
 " *of them, who challenged the same Lands for the*
 " *Consideration aforesaid, that the same Lands*
 " *ought to revert to them as their Escheats.*

" Whereupon after in a Parliament of the most
 " noble Prince King *Edward*, Son of King *Ed-*
 " *ward*, summoned and assembled at *Westmin-*
 " *ster*, three Weeks after the Day of the Pu-
 " rification of the blessed *Virgin Mary*, in the
 " seventeenth Year of the Reign of the same
 " King, great Conference was had before the
 " King himself, in the presence of the Prelates,
 " Earls, Barons, Nobles, and great Men of
 " the Realm, and others there present, whe-
 " ther the foresaid Lords of the Fees, or others

“ which held those Lands that were the fore-
 “ said Templars, as is aforesaid, might retain
 “ them by the Law of the Realm, and with
 “ safe Conscience. Whereupon the greater
 “ Part of the King’s Council, as well the
 “ Justices as other Lay-Persons, being assem-
 “ bled together ; the said Justices affirmed pre-
 “ cisely, that our Lord the King, and other
 “ Lords of the Fees aforesaid, might well and
 “ lawfully by the Laws of the Realm retain
 “ the foresaid Lands as their Escheats, in re-
 “ gard of the Ceasing and Dissolution of the
 “ Order aforesaid.”

Hence it is evident, that the Nature of these Tenures, and the general Laws of Property subjected the Estates of the religious Houses dissolved by *Henry VIII.* and *Edward VI.* to their discretionary Disposition.

Thirdly, The Injury done to the Church, by the unequal Exchange of the Lands of Bishoprics in Queen *Elizabeth’s* Reign, is to be charged upon the first Introducers of Tricks and wicked Arts for unsettling ecclesiastical Establishments.

The Revenues of the Church ought for ever to have been exempt from the Traffic and Merchandise, to which other Property is subject.

But when in the twelfth and thirteenth Centuries, it was found that Permutation, Exchange, and Translation of Estates from one ecclesiastical Use or Foundation to another, would promote the Trade of, what was then called, Religion ; the Learned in the Canon Law employed their Casuistry to invent Distinctions, and Palliations for giving an Air of Decency to this unlawful Commerce : And in this they succeeded so well, that the Register-Books of our Churches are full of Compositions, Accords, Surrenders, Dissolutions, New-Erections, and

and various Species of Exchange of ecclesiastical Estates.

Here then the Blame ought to be laid, upon the Inexpediency of unsettling ecclesiastical Establishments by the Trick of Exchange, and not upon the Inequality of it.—For no Man in his Wits ought to blame Ecclesiastics, if they are to traffic with a Court, for their Complaisance to it.

Upon the whole, the Preservation and Security of all public Trusts, must be allowed to depend upon the Opinion the World entertains of the Obligation Men are under, to observe original Institutions: And therefore whatever lessens the Esteem of the Sacredness of their Designations, may in Event prove an Inlet to Embezlements, whenever any Opportunity offers, of palliating Rapine with an Appearance of an Application to better, or more necessary Occasions.

A familiar Instance will explain this Reflection, and by Comparison point out the Cause of the Deficiency of ecclesiastical Revenues. The Sinking Fund is now looked upon as a sacred Deposit, which no unhallowed Hand ought to divert from its destined Use, of redeeming the National Debts: But should a Pretence of occasional Exigences furnish an Handle in any future Age, for applying this Fund to different Uses; and the Familiarity of the Practice lessen the Reverence which at first was paid to it; succeeding Generations may feel the Consequence of this Diversion, and be taught the Danger and Impiety of popish Contrivances for subverting ecclesiastical Establishments, from their own Experience of the Mischiefs attending Prevarications in public Trusts in their own Times.

CHAP. V.

THE Death of *Henry VIII.* and *Edward VI.* prevented their Ratification of a legal Settlement for the Church, prepared under their Commission, in pursuance of the first Design, upon the Separation from *Rome.*

Queen Elizabeth, King *James I.* and *Charles I.* were disabled from going on Considerations of that Kind, by the Ferments about Religion in their Reigns: And Protestant Settlements can scarce be thought to have entred into the Councils of *Charles II.* and *James II.*

But the Revolution presents a new Scene; and affords fresh Matter of Inquiry as to the Progress of the Reformation, when the Efforts of Popery were again defeated, and the Heats of Religion quieted by a Toleration, and a Declaration of the Conventiary Parliament's Dislike of the High-Commission Court, which had given great Offence to Non-Conformists.

The High-Commission Court, as hath already been related, was erected to supply the Want of legal Provision for the Government of the Church.

It had once been moved in *Edward the Sixth's* Reign, to erect a standing Court of *Chancery* for ecclesiastical Matters: But it was found more expedient to use only a provisional Commission; probably, lest if such a standing Court had been erected, an Handle for Suspicion might have been taken, that the Design of compleating the Establishment of the Church was wholly laid aside. However, after provisional Commissions, instead of a reformed System of Laws, had been used above a Century, these were first superseded by Act of Parliament in

1641, and thereupon the Church lapsed backwards into the Interim Administration of 1553, and being divested of the former Aids from the Crown to supply the Defects, which had been the occasion of Complaints against it, ever since the Beginning of the twelfth Century, became again onerous to his Majesty's Subjects.

25 Hen. 8.

The * Catholic Historian would not overlook this Imbarassment, but diverts the Enemies of the Reformation with observing, " That the Reformers at this Day, are at a Loss for some such sort of a Provision, as the *Reformatio Legum*, as it appears by the awkward and blundering Proceedings of their spiritual Courts, where they want standing Laws for their Direction."

* p. 356.

But it was not intended that Matters should rest here: To put down a Court of *Chancery*, and leave the common Law uncorrected, would be a surprising Paradox in Politics; and yet not more unaccountable, than to suppress the High-Commission, and leave the Canon Law, under which the Nation had groaned almost thro' four Centuries, for the standing Rule of Discipline.

That this was not the Design of the Parliament, is well known; but as the increasing Violence of Parties would then admit no deliberate Measures, it may be proper to take this Matter up, where the Constitution came next to be duly considered; that is, upon the Revolution.

In 1689, the Conventiary Parliament declared against the Use of an High-Commission-Court; and in the same Session King *William* sent the following preparatory Commission to the Convocation then sitting.

" Whereas the particular Forms of divine Concil. v. 4.
" Worship, and the Rites and Ceremonies ap- p. 619.

" pointed

“ pointed to be used therein, being Things in
 “ their own Nature indifferent and alterable,
 “ and so acknowledged ; it is but reasonable,
 “ that upon weighty and important Considera-
 “ tions, according to the various Exigences of
 “ Times and Occasions, such Changes and
 “ Alterations should be made therein, as to
 “ those that are in Place and Authority should
 “ from Time to Time seem either necessary or
 “ expedient.

“ And whereas the Book of Canons is fit to
 “ be reviewed, and made more suitable to the
 “ State of the Church ; and whereas there are
 “ Defects and Abuses in the ecclesiastical Courts
 “ and Jurisdictions ; and particularly there is
 “ not sufficient Provision made, for the re-
 “ moving of scandalous Ministers, and for the
 “ reforming of Manners, either in Ministers
 “ or People. And whereas it is most fit, that
 “ there should be a most strict Method pre-
 “ scribed for the Examination of such Persons
 “ as desire to be admitted into Holy Orders,
 “ both as to their Learning and Manners.

“ We therefore, out of our pious and
 “ princely Care for the good Order, Edifica-
 “ tion, and Unity of the Church of *England*,
 “ committed to our Charge and Care, and for
 “ the Reconciling, as much as possible, of all
 “ Differences among our good Subjects, and
 “ to take away all Occasion of the like for
 “ the future, have thought fit to authorise You,
 “ &c. or any nine of You, whereof three to
 “ be Bishops, to meet from Time to Time, as
 “ often as shall be needful, and to prepare such
 “ Alterations of the Liturgy and Canons, and
 “ such Proposals for the Reformation of the
 “ Ecclesiastical Courts ; and to consider of
 “ such other Matters, as in your Judgments
 “ may

“ may most conduce to the Ends above-mentioned.”

This was all of a Piece: If the High-Commission was a distastful Remedy, and had fallen, either under popular Prejudice, or the just Censure of the Nation, still some Remedy was needful to supply the Exigences of the ecclesiastical Administration, and could not be decently postponed after a Toleration was established in Favour of Dissenters.

The Church had then experienced the Imperfections of a new Form of Government for twenty Years: New, in this Respect, that it was left to shift for itself, without the accustomed Aids from the Crown, or occasional Orders of Synod to the Consistories, or Liberty of making a synodical Representation, (especially upon the King's arbitrary Suspension of the Laws enacted for the Security of the Church of *England*;) from 1666, to 1686: Notwithstanding the King's Declaration in 1660, concerning the Regulation of Religion in many Respects, especially as to the Abuse of Excommunication and Absolution. So that episcopal Consistories, during that Period, had a Charge upon them, far exceeding their Abilities in any Age, when improved to the utmost Pitch they were capable of. Concil. v. 4.
P. 562.

How disorderly thereupon the Clergy became, how great the Increase of Papists on one Side, and Sectaries of various Colours and Complexions on the other, let the Historian of his own Times, or others, who have a better Hand in shaping Accusations against their Brethren, relate.

In general, it must be recollected, that with a Sense of Religion, all Notions of public Liberty were almost extinguished: Vice and Immorality

morality had opened a Door to Venality and pensionary Corruption, and our civil and religious Rights were upon the Point of being bartered away together.

In this Crisis, the Deliverer of our Country, the Restorer of Liberty, and Protector of Protestantism, gave the before Commission to the Clergy, to enable them to retrieve the Honour of their Church, regain their Influence in Church and State, and complete the Reformation.

The Revolution found the Church under an Interim rather than an Establishment. There had indeed been no Failure of Discipline during the Reigns of Queen *Elizabeth*, *James* the First, and *Charles* the First; the Debility of ordinary Jurisdiction being supplied by Commissions from the Crown, or Orders from the Synod to inferior Courts: But as that Commission almost absorbed the Reliques of Diocesan Jurisdiction, the Conventiary Parliament of 1688 declared against it. From whence it may be concluded, that it was the Sense of the Nation, that the Crown, in the Exercise of that Commission, had assumed too much, and the Bishops retained too little Power, for the Rank assigned them in Church and State.

Bishops without Jurisdiction, were as unknown to our Constitution, as to the Primitive Church; and it was the Design of the Revolution to restore our ancient Government: In Consequence of that Design, Episcopacy was to be reinstated in its former Capacity to serve the Church and State, by reforming those Innovations and Corruptions, which had intercepted the Fruits of its original Institution. This was a necessary Step to an Establishment of the Church. For ecclesiastical Jurisdiction, if left under the Load of those Disorders, which
excited

excited the Nation to a Separation from *Rome*, must fall into one or other of these Extremes ; that is, must become the Instrument of Oppression, by the Execution of onerous Laws, in a Course of Practice more onerous than the Laws themselves, as had been experienced in the Reigns of Queen *Elizabeth*, *James* the First, and *Charles* the First ; or, to become harmless and cease to oppress, must cease to be effectually executed : In Consequence of which, the Bishops would have less Weight, Influence, and Authority in their Dioceses, the Clergy want Protection as to Estates and Persons, Vice grow insolent by Impunity, and Discipline at length be laid aside like an antiquated Fashion, or worn-out Machine. Perhaps too it was remembered, that the Bishops were disseised of their Seats in Parliament within a few Months after they had been stripped of their Jurisdiction in 1641. All these Inconveniences were to be obviated by the King's Commission.

But all the Use the Clergy made of that gracious Opportunity, was to shew, that the Time of our Redemption was not yet come ; that they would do nothing for themselves, nor concur with others : And the King observing an Indisposition in the Bishops, or Clergy, or both, to contribute their Endeavours to have the ecclesiastical Constitution established upon a Protestant Basis, put the Convocation under a kind of Suspension for ten Years.

I. In 1700, the King was pleased to open the Convocation again ; but with it began an unhappy Controversy between the upper and lower House, about Forms of Adjournment, Schedules of Prorogation, and the Right of the President to mark out the Business to be debated in Synod ; And the Attention of the Bishops
and

and Clergy was so far engaged in this Dispute, as to cause all other Exigences to wait the Issue of it.

In sifting this Matter, the Records of the Province were scrutinized from the thirteenth Century, and great Numbers of Volumes passed thro' the Press, and a clear Evidence came to Light, " That the Archbishop had went to " prorogue the Synod, without the Consent " and Concurrence of the lower House ; and " that he received many synodical Applications " for Redress, to which he was not pleased to " accede," hath already been shewn.

Concil. v. 4.

* † Ibid.

During this Litigation for twenty-eight Years, one Opportunity passed and another came, yet nothing effectual was done. If Business was moved, whilst the Synod had no Licence, Doubts were raised as to the Power of an unlicensed Synod, to come to synodical Resolutions. Nevertheless, when the Crown graciously condescended to remove that Impediment, as was done by the Favour of * Queen *Ann*, and † King *George* the First, one Pre- tence or other was taken up, from the Frag- ments of that stale Controversy, about Forms, &c. to frustrate the Completion of the necessary Work.

A Key to this may be found, in the Preface to a Speech of Archbishop *Tenison's* to the Synod, where it is laid down, " That it was impossible " to separate the Matter of Business from Ir- " regularities in the Manner of doing it ; and " therefore that the upper House was not to " be pushed to do Business, till the lower " House would be content to act in due Subor- " dination to their Superiors." And by pri- vate Writers it was maintained, that some of the Clergy were disaffected to the Government, factious

factious and turbulent, others irregular in their Lives, indiscreet and unexperienced, and not fit to be trusted with Business in Synod.

A very unusual Way this, of bringing Men to temper, to add to the Occasion of their Complaint, by what they could not but resent as a further Grievance!

At length, that is, in 1728, the upper House was pleased to determine the controverted Right, by a Declaration in Favour of the Archbishops Claims. Their Decree was as follows.

Wednesday, April 10. 1728.

“ **W**Hereas it appears, that in some late
 “ Convocations, a Practice has ob-
 “ tained in the lower House, of continuing
 “ the Sessions from Time to Time, by the
 “ Prolocutor’s acquainting the Members from
 “ the Archbishop’s Schedules sent down to him,
 “ that the Adjournment, or Continuation made
 “ in the upper House was to such a Day; and
 “ then proceeding, with Consent of the House,
 “ to make the Adjournment there: Agreeably
 “ to which, the Entry thereof in that House,
 “ hath been in these or the like Words,
 “ PROLOCUTOR, *cum consensu Domus, continu-*
 “ *avit Convocationem quoad banc Domum.* Which
 “ Practice supposes such a Continuation to be
 “ the Act of the lower House, and that the
 “ Members thereof have a Power, if they
 “ please, to adjourn themselves to a different
 “ Time.

“ We the Commissary of the Archbishop
 “ specially impowered, and directed by his
 “ Grace in this particular Point, together with
 “ the Bishops of the Province in Convocation
 “ assembled, apprehending that our Connivence

“ at

“ at such a Proceeding, may hereafter be in-
 “ terpreted an Acquiescence in it, do unani-
 “ mously declare, that the abovesaid Method
 “ of continuing the lower House is irregular,
 “ and contrary to the plain Tenor of the Arch-
 “ bishop’s Schedule, and to the known Practice
 “ of Convocation, and such as doth manifest-
 “ ly tend to establish an Independence of the
 “ lower House upon the upper.

“ And we do further declare, that inasmuch
 “ as the whole Convocation is prorogued by the
 “ Archbishop with the Consent of his Suffra-
 “ gans in the upper House, in which Proro-
 “ gation both the Bishops and Clergy are ex-
 “ pressly included, and by it equally deter-
 “ mined ; nothing can regularly be done there-
 “ upon in the lower House, but the Prolocu-
 “ tor’s intimating to the Members, that the
 “ Convocation is prorogued and continued
 “ to such a Day, and admonishing them to
 “ attend accordingly : And then causing an
 “ Entry of such an Intimation and Admoni-
 “ tion to be made in the Acts, according to the
 “ usual Practice and Language of Convoca-
 “ tion, antecedent to the late Controversies
 “ about the Rights and Privileges of the two
 “ Houses.

“ If it be thought that this Declaration
 “ ought to have been made sooner, it will be
 “ considered, how long the Prorogations have
 “ been made in pursuance of Royal Writs ;
 “ and also, that the upper House had Hopes,
 “ that the Clergy of the lower House would
 “ of themselves return to the regular Me-
 “ thods.”

N. B. This Decree or Declaration was made
 in an unlicensed Synod.

Upon this long Controversy it may be pardonable to make one Observation : That how clear soever the Evidence came out in support of the Presidents Claims ; yet it is still a Problem, whether it was expedient to recall the Practice of Synods in the corruptest Times, to be made a Rule and Standard in a Church reformed, and a Nation emancipated.

Great Distaste had been expressed at the Insult put upon the Catholic Church, by the Pope and his Legates refusing to accede to the Suffrage of Councils, or preventing their Resolutions by false Pretences for the Necessity of Prorogations. And the Council of *Basil* had formally decreed, “ *Non licere Pontifici Concilium prorogare, Congregationem dissolvere, aut de Loco in Locum, sine Concilii expressso Consensu, transferre.*”

Council of
Constance and
Basil.

Neither was the Demand of the Presidents at *Trent*, to have the Proposition of all Business pass thro' their Hands, relished by the disinterested Fathers of that Council.

From whence it may be inferred, that the President of a protestant Synod, could not have been chargeable with any culpable Disregard of the Pre-eminences of his Office, if he had pretermitted such Claims, as bore too near a Resemblance to the exploded and condemned Artifices of the See of *Rome*.

There is one other Incident or two, within this Period, that may deserve some Notice, viz. the Disagreement between the two Houses, as to their Authority to pass Censure upon Books.

In 1701. the lower House took under Consideration the Bishop of *Salisbury's* Exposition of the Thirty-nine Articles of the Church of *England*, and came to several Resolutions upon it, and then laid them before the upper House :

And on the thirteenth of *June*, and nineteenth Session, the upper House proceeded to the following Conclusions in relation to the Complaint and Censure of the Bishop of *Sarum's* Exposition of the Thirty-nine Articles, made by the lower House, and presented to the Archbishop and Bishops, on *May* the 30th, 1701.

“ 1. It is our Opinion, that the lower House
“ of Convocation has no manner of Power
“ judicially to censure any Book.

“ 2. That the lower House of Convocation
“ ought not to have entered upon the Examination of a Book of any Bishop of this
“ Church, without first acquainting the President and Bishops with it.

“ 3. That the lower House of Convocation's
“ censuring the Book of the Bishop of *Sarum*
“ in general Terms, without mentioning the
“ particular Passages on which the Censure is
“ grounded, is defamatory and scandalous.”

A further Reflection upon this Censure is obvious, *viz.* that the Book censured is miscellaneous; that is, treats not meerly of Matters of Faith and Doctrine, or the Text of Scripture, which are unquestionably a proper Field for synodical Observations; but of the external Regimen of the Church, national Usages, Statutes, the Prerogatives of the Crown, and Rights of the Supremacy: And whether a protestant Synod can take Cognisance of Arguments of such a complicated Tendency, may admit of much Doubt: Certain it is, that the Pope's Prohibition would not reach so far.

For the Pope's Censures upon Books in *France, Spain, Naples, Germany*, and all catholic Countries, thro' which he affects an universal Dominion over the Press, have no Effect of themselves, without the *Exequatur Regium*,

Regium, or a Permit from the civil Magistrate, Hist. Naples. who upon a careful Examination confirms or disallows the pontifical Interdict; those States knowing, by Experience, that every Thing would be suppressed which contributed to the Stability and Order of their Government, or to the Maintenance of civil Jurisdiction, and nothing be allowed but Notions of ecclesiastical Authority and Dominion, should the Press be left to pontifical Regulation.

Of an Abuse, in some sort similar to this, a Complaint was made by the Booksellers to our Parliament in 1628, when the Press was under the Management of Archbishop *Laud*, viz. Rushworth, and Hist. of Archbishop Laud's Troubles and Trial.
 “ That the Writings of the best Authors on one Side were stifled in the Press, while the Books of the other were published and spread over the Nation :” And the good Archbishop not taking Warning hereupon, but committing the Supervision of the Press to his unskilful Chaplains, was soon after impeached for their Partiality, in licencing some Books and suppressing others.

Neither may it be improper to mention in this Place a Placard of the States of the United Provinces, against publishing any of the Acts or Debates of the Synod of *Dort*.

After fifty public Sessions had been held, to which all Persons were admitted with Liberty Brandt. to take Notes, the Contra-Remonstrants coming to Resolutions, that were not easy to be supported by Argument and fair Debate, found it expedient to discuss Matters no longer in Public, but to hold private Sessions, and to keep their Conclusions from the Press: And for this Purpose procured, not an Order of the Synod, but a Placard from the States; which is an Evidence, that this Regulation of the Press,

Press, in respect of Debates about the Settlement of a national Religion, was esteemed a Branch of the Supremacy, and to lie without the Verge of synodical Authority.

The other Point of this Kind was the Complaint of the lower House against the Bishop of *Salisbury* in 1704, for publishing unfavourable Observations upon a Representation of Grievances, presented by the lower House to the upper, sitting the Convocation.

What Answer was given to this Complaint is not come to Light ; but as the Press is so interesting a Subject, that the Public is always attentive to every Motion which may affect its Liberty in the remotest Degree, a short Examination of the Bishop's Conduct, and the Grounds of Complaint against it, will not be very foreign to the Design of this Treatise.

The Objection against Publication of the Remarks by the Bishop was, that the “ Publication of Animadversions upon Matters
“ delated to the ecclesiastical Legislature in the
“ ordinary Course, was a Derogation of the
“ Reverence due to the Authority of the venerable Synod : That Appeals to the World
“ were then only warrantable, when the proper
“ Magistrate declines a free Discussion and a
“ fair Determination of the controverted Right.
“ That tho' neither Religion, nor natural
“ Justice, would admit an absolute Restraint
“ upon private Judgment, or the Press, yet
“ some Regulations of these Liberties were
“ consistent with both ; if the Subject is precluded from Access to the Magistrate, and
“ the Press together ; if the Legislature refuses
“ Audience to his Petitions, and at the same
“ time imposes Silence and Censures on his
“ Complaints of Justice denied, the secret
“ Avenues

“ Avenues of Truth may be opened, as the
 “ only Means of redeeming civil or religious
 “ Rights from the Fetters of misused Authority:
 “ But this was far from being the Case, for the
 “ Representation animadverted on by the Bishop,
 “ had been humbly offered to, and favourably
 “ considered by their Lordships, assembled in
 “ Synod.

“ Besides, there are many Orders amongst Acts of Conv.
 “ the Records of the Convocation, against in 1297, 1529,
 “ publishing the Secrets of the Synod, and 1541, 1557,
 “ such Orders were expedient for supporting 1588, 1640.
 “ the Honour of the House, which may suffer
 “ by Mis-reports, or partial Representations
 “ from the Press; or by laying bare the Lapses
 “ of Passion or Inadvertence in Debates, which
 “ neither Experience nor Wisdom can at all
 “ Times prevent.”

In Vindication of the Bishop, it may be observed, that the Simplicity of primitive Councils neither required Secrecy or Concealment, nor was averse to a free Publication of their Acts. As their Discretion stood in need of no Shades to be set off by; so their Moderation was above the Use of *Arcana Imperii*, all Contrivances to lay the Foundation of Power, in the Credulity of a deluded World.

The Laity therefore, whose Province is Obedience, were never locked out from primitive Synods; but being present at all Debates, executed the Precepts of the Fathers with a Complacency, which nothing could excite, but Conviction of their Reasonableness.

The Court of *Rome* did indeed recommend to the Prelates at *Trent*, the Expedience of Secrecy, as most instrumental to heighten the Veneration and Reverence of their Councils. But notwithstanding that Admonition, several

F. Paul.

Narratives were printed, of Proposals for Redress of Grievances, prepared for the Consideration of the Council, and rejected without a due Debate: And the Fathers were, by Experience of the Consequences of the hasty Restraint and Censure put upon *Luther*, made too wise to censure the Publishers of them, or even so much as the Publication.

This Liberty of publishing the Debates of primitive Councils, may be evidenced by particular Instances and Examples.

Euseb. Epist.
apud Theo-
doret. v. 3.

When different Reports were made of the dubious Conduct of *Eusebius* in the Council of *Nice*, he writ to the People of his Diocese an Account of the Debates of the Council, and his own Part in them.

Athanas. Op.
v. 2.

Athanasius not only remonstrated to the Emperor against the Irregularities of the Council of *Tyre*, but published an Epistle (which is still extant) to lay open the Transactions of the Council of *Ariminum* and *Seleucia*, and the Intrigues of the Emperor *Constantius* with the Prelates therein, which Epistle was writ pending those Councils; of which likewise a fuller Account was published by St. *Hilary*.

Du Pin.

Cave's Lives
of the Prim.
Fathers.

Neither is *Chrysostom* innocent of this Offence; for he could not bear with Silence the Justice of the Council of *Chalcedon*, but divulged their Secrets, in a Letter of Complaint about his Deposition, to *Leo* Bishop of *Rome*.

Chrysost. Op.
Edit. Latin.

In the same Century, St. *Cyril* and *Theodoret* made free with the Council of *Ephesus*, publishing Observations upon their tumultuary and partial Proceedings.

And tho' it may not be decent for *Cælestius*, *Nestorius*, *Flavian* and *Eutyches*, to crowd into the Company of the above-mentioned Fathers; yet whoever has the Curiosity to inquire into their

their Conduct, may find upon Record, that *Celestius* sent a Narrative of the Debates of the Council of *Carthage* to Bishop *Zosimus*; *Nestorius* a Particular of the Council of *Ephesus* to the Emperor *Theodosius*; and the two latter appealed from the Council of *Ephesus*.

Neither are there greater Vestigia of an Inclination to Secrecy in the ancient Usages and Customs of our national Synods, than in the primitive Church; they being held not only in the Presence of the Populace of the Land, but consisted of Abbesses, and Prioreesses, as well as of different Ranks of Clergymen: And it became not a Maxim of ecclesiastical Policy here, to make a Secret of that wherein all Men were equally interested, before the King was divested of his Supremacy, and Church and State were preposterously put upon separate Bottoms.

Orders for Secrecy are the proper Instruments of a Church affecting Independence on the State; so that an Inquiry into their Origin and Tendency may be adviseable, before they are recalled into Use. The earliest Precedent that occurs, is in 1297. Therefore when Archbishop *Winchelsea* had determined at all Hazards to push on a total Exemption from the Crown, and held out against the premunitory Clause in the parliamentary Summons, which was intended to fetch back the Clergy to a Participation of the common Councils of the Nation; he at the same Time imposed Silence upon the Members of the Synod, turned the Servants of the Court out of the Chapter-House, as well as the Populace, and carried on all Debates under the Tie of Secrecy.

Angl. Sacra.

For such, or less innocent Reasons, the whole Managery of the Inquisition was conducted

Limborch's
Hist. of the
Inquisition.

ducted under the most peremptory Silence; infomuch as Essays in Defence of Innocence, and Reputation impeached, have not only been deemed undutiful Insults upon that sacred Tribunal, but the Groans of Prisoners under their Chains, nay Coughs contracted thro' the Dampness of the Dungeon, have been adjudged a Breach of the Orders for Secrecy.

This is not mentioned to raise any unfavourable Allusions, but only to lead to an Observation, viz. that the Office of Inquisition could not gain Admission into some catholic States, till the Point of Secrecy was brought under Regulations, with a View, not so much to administer equitable Reliefs to the suspected or accused, as to secure the Government against the ill Use that might be made of the Exercise of ecclesiastical Authority, without the Privity of the civil Magistrate.

Fath. Paul's
Hist. of the
Inquisition at
Venice.

Therefore, at *Venice* for Instance, the Assistants to the Inquisitors appointed by the State, were not to be put under an Obligation to Secrecy, for this express Reason, viz. "Be-
" cause an Obligation to Secrecy would make
" them cease to be Servants of the State."

This is an Observation of some Weight. The Members of our Synods, tho', as Ministers of the Gospel, they are the Servants of Christ only; yet, as Ministers of this national Church, are Servants of the State: How far then, any Orders for Secrecy by the Synod, or Censures for making public the Debates of the Synod, are consistent with the united Character of the national Clergy, or may be suspected of approaching to Independence upon, or Disunion from the State, is submitted to Consideration, together with the Judgment of the Senate of *Venice* upon it.

II. Whilst

II. Whilst the Clergy continued * thus indis- * From 1688
posed to do any thing for themselves in Synod, to 1741.
Non-Conformists were endeavouring to push
their Interest in Parliament : And the Act of
Toleration, which was so large and beneficial,
as to be termed by their own Writers an Esta-
blishment, was nevertheless not deemed large
enough for the Exercise of Consciences truly
scrupulous ; according therefore to the Sample
of the *French* Hugonots, they meditated to
obtain a further Toleration of the Worship of
God in their own Way, by an Admission to
secular Offices and Trusts : And much Reason-
ing, from the Principles of Christian Modera-
tion and Natural Justice, was perverted, to
persuade the Nation into a Repeal of the Test
Acts : — Acts, which are no less requisite for
preserving the Peace of the Realm, and giving
a Preference to the national Religion, necessary
to distinguish it from other Professions, than
for perpetuating to Dissenters the Injoyment of
a Toleration.

This Dissatisfaction of Dissenters under the
Toleration was as exceptionable as the Inter-
mission of the national Clergy to prosecute the
Completion of their legal Settlement ; and the
more so, as their Expressions of Dissatisfaction,
whether pointed against the Revenues, Securi-
ties or Reputation of the established Church,
could not but indanger the Toleration itself.

The End of a Toleration is Peace ; — and
the Christian Precepts about mutual Forbear-
ance, Meekness, Temperance, Patience and
Long-suffering, are excellent Rules of Policy.

From the Difference of Mens natural In-
dowments, Education, and Course of Life,
frequently results a Diversity of Judgment ;
and this Diversity, when it turns upon Modes
of

of Religion, furnishes them with many Opportunities to comply with the Dictates of Reason and Christianity, in indulging each other in the Use of different Forms of Worship, according to their respective Conceptions and Sentiments.

But as the Welfare of Society is likewise greatly interested in the Performance of these Duties, the civil Magistrate can never want Inducement to enforce them, nor his Endeavours fail of attaining his End, which is Peace, whenever these Differences proceed from nothing more than a different way of Thinking, and neither Interest nor Passion are thrown into the Scale.

In this Case, the Use of different Forms is an Evidence of Mens Sincerity, and the Establishment of a Toleration an effectual Remedy against all Inconveniences from Diversity of Sentiments.

But when Dissenters from a national Religion are not satisfied with Exemption from penal Laws, nor with a Liberty to worship God freely in their own Way, but attempt to surprize the Feebleness of an Administration into unreasonable Compliances to their Party in prejudice of the established Church; or trespass upon the Patience of a Government, by assuming Privileges not allowed by Law: In this Case, Peace and Unity, the Magistrate's End in allowing different Usages in Religion, will be in a great Measure defeated; and consequently his Motives to Moderation be lessened in Proportion.

There occur in History many instructive Instances of this Kind.

Let it be recollected, what Privileges the Friars affected in the 13th, 14th, and 15th Centuries, over and above a Toleration of their

Non-

Non-Conformity to the ordinary Discipline of the Church. Was it not a Discharge from the Payment of Tythes, and a Right to open Seminaries and Academies in all Places? And it is not to be doubted, but that the Resentment of these Incroachments, (which had often been complained of by the * Clergy and * Univer-

** Wood, p. 71, 80, 1, 2,

sities) facilitated their Dissolution. When the Reputation of these Friars was sunk in all Parts of *Europe*, a new Order of † Jesuits was erected; who not content to be excused from ordinary Government, would at their Peril, trespass upon the Clergy in respect to Tythes, and on the Bishops and Universities in respect to the Education of Youth.

3, 103, 149, 180, 1, 2, 244, 5, and Cotton's Records,

† Hospin. Histor. Jesuit. p. 92, 103, 4, 5, 6, 7, 8,

Once again, What did the growing Demands of the *French* * Hugonots terminate in, but an unjust Revocation of the Edict of *Nantz*? Un-

120, 142, 3, 4, 5, 6, 7, 9, 150, 1, 259, 320.

just, as common Equity would allow them an Exemption from penal Laws, and the Use of publick Worship, so long as they continued loyal and peaceable.

* Thuan. Davila.

These Considerations might have disposed Dissenters to a thankful Acquiescence under the Toleration, notwithstanding the Advantages they might hope to gain from the Disunion of the Bishops and Clergy; but they would not let slip the Opportunity.

Some of them proceeded to set up Schools and Academies for the Education of Youth, without subjecting their Masters, on Account of their Schools, to any Oaths, Tests, Examination, or publick Regulations of any Kind. This Privilege the *French* Hugonots had indeed extorted from the Crown of *France* with Sword in Hand: But it ought to be remembered, that as the *French* Hugonots had Authority by Treaties to hold Synods, and make, and le-

Thuan. & Davila.

gally

gally enforce Regulations for the orderly Government of their Profession; so their Schools were under a settled Oeconomy. What civilized Commonwealth ever left at large the Education of Youth? Not the ancient Cities of *Greece* and *Rome*, nor the *Gothic* Kings after the Ninth Century, not the Protestant States and Princes of *Germany*, nor the Discipline of *Calvin*. Much less the Synod of *Dort*, or reformed Church of *Scotland*.

Others applied for a Repeal of the Test-Acts; and the Quakers improved the Doctrine of the Minorite-Friars, with Respect to the Unreasonableness of the Clergy, in demanding Tythes; altho' the Act of Toleration had expressly provided against all Pretence in Non-Conformists, to Exemption from paying Tythes, or other parochial Dues, or any other Duties to the Church or Minister, or to Exemption "from any Prosecution in any ecclesiastical Court for the same;" yet the Quakers persisted in withholding their Tythes, disowning the Authority of ecclesiastical Courts, and accusing the Church of Persecution, whilst they were daily Witnesses of the Lenity of its Government.

In short, the Act of Toleration, which was of the Nature of a Compact between Conformists and Non-Conformists, had been kept only by the former: And the Clergy in Synod since the Revolution, gave themselves up so far to Disputes about synodical Forms, as to attend to the true End of the Revolution, less effectually than they ought to have done.

III. But to return to a Relation of the Effects of the Declaration of the Bishop of *London*, and the fourteen other Prelates in 1728, upon the long controverted Points.

This

This solemn Declaration had raised the Hopes of the Friends to the established Church and Religion, who looked upon it as a Step towards retrieving and recovering the lost Reputation of Synods: For if the inferior Clergy should hereafter come to a better Way of thinking, and dutifully acquiescing under this Declaration, become conformable to the Pleasure of their Superiors; should they, upon proper Representations of their Submission and Amendment, be so happy as to regain the Favour and Confidence of their Head, all Impediments would then be removed, which had prevented their proceeding in Synod, on the Plan of Reformation, designed at the Revolution.

In these Hopes they were greatly confirmed by the Promotion of the Right Reverend Father in God, *John*, Lord Bishop of *Oxford*, to the See of *Canterbury*; a Prelate, whose Piety, Learning, and steady Adherence to the Cause of Religion, whose judicious * Treatise upon *
Printed in the ancient Government of the Church, and 1707, p. 321; Assertion of the Use, Authority, and Right of 2, 3, 4. &c.
 the Church to make, and execute Canons for the Maintenance of due Discipline and Order in Religion, could not fail to dispose the Clergy to an entire Reliance upon his Zeal for their Interest, and prevail upon them to wave all Points of Form, which are only valuable, so far as they are instrumental in preserving synodical Rights; Rights to which the lower House could have no Occasion to divert their Attention, under his Grace's Patronage and Tutelion!

Whilst they were entertaining themselves with this Prospect, the Convocation met at *St. Paul's*, upon the Second of *December*, 1741, and upon the Twenty-seventh of *January* following

lowing, the Archdeacon of *Lincoln* moved the lower House to take under Consideration the State of Ecclesiastical Courts, clandestine Marriages, the Qualifications of Persons to be admitted into Holy Orders, and the Titles and Salaries of Curates.

In the intervening Session, the lower House had given a Specimen of their Temper, dutiful Inclinations, and disingagement from all former Prejudices. For in several Synods since the Revolution, the inferior Clergy, as they constitute a separate House, insisted upon the Honour of making a separate Address to the Crown, upon the Privilege of being adjourned by their own Consent; upon a Right to put their own Prolocutor and Vice-Prolocutor into the Chair; to have frequent Sessions in Time of Parliament; and to hold intermediate Sessions, when Business required.

But the present House was content to stand prorogued by his Grace's Schedule of Adjournment, transmitted from above; to hold no intermediate Sessions, and to be discontinued in Time of Parliament as long as his Grace was pleased; to have the Election of their Prolocutor confirmed in the upper House; and to Address the Crown, not in Words of their own Conception, but in such as were transmitted for their Concurrence from the upper House; in short, they insisted upon no Points of Form, claimed no questionable Rights, but gave Proof of having returned to what had formerly been called, "a Sense of their Duty."

But they had a further and better Qualification for entering on Business. His Majesty was graciously pleased to indulge the Synod in a length of Consultation, beyond what the Forms of Law required; their Gratitude therefore for this

this Favour could not but dispose them to understand it, as a Testimony of his Majesty's Confidence in their Discretion, and Fitness to be trusted (to use the prefatory Words to the Articles) with the Work proper for Churchmen.

Accordingly, the lower House resolved unanimously upon the Archdeacon's Motion, "that the Archdeacon should reduce the Particulars of his Motion into Writing, to be offered to the Consideration of the House, at the next Session;" to the End (as one would think) that the House might consider, whether the Matters suggested stood in need of any Regulations, and what; whether by the ordinary Power of the Prelates, or in the Course marked out by 25 and 35 Henry VIII. or by synodical Authority; and make their Application to the King, or Parliament, or Prelates, as was most suitable to the Remedy wanted."

Acts of lower House.

IV. In this Resolution the lower House was warranted by the earliest Precedents. For in 1542 the Prolocutor of the lower House presented a Petition, *de Legibus Ecclesiasticis conficiendis juxta statutum in ea parte editum*, &c. Again, in 1547 the Clergy resolved, that Mr. Prolocutor in the Name of the whole House should present the following Petitions to the Archbishop, amongst which are,

Concil. V. 3.
p. 863.

A Petition, that the Clergy being assembled in Convocation by Authority of the King's Writ, do desire, that the King's Majesty's Licence in Writing may be for them obtained, according to the Effect of the Statute of King Henry VIII. authorizing them to attempt, treat, and commune of Matters, &c. and therein free-

Concil. V. 4.
p. 15, 16.

ly to give their Consents, which otherwise they may not do upon Peril promised. And,

Concil. V. 4.
P. 15, 16.

That Ecclesiastical Laws may be made and established in this Realm, by thirty-two Persons, or so many as shall please the King's Majesty to name and appoint, according to the Effect of a late Statute made in the thirty-fifth Year of the most noble King, and of most famous Memory King *Henry VIII.* so that all Judges Ecclesiastical, proceeding after those Laws, may be without Danger.

Ibid. p. 321.
2, 3, 4, 5, 6,
7, and Ad-
dit. to Atter-
bury on Con-
vocat.

Another synodical Application to the Crown, for a Licence to the Clergy of the Province of *Canterbury*, was made in 1586; and the like by the Clergy of the Province of *York*.

Concil. V. 4.
P. 352, 412,
563.
A. B. Wake's
Hist. of the
State of the
Church and
Clergy of
England, p.
535, 6, 594,
600, 614,
618, and Ap-
pend. of Let-
ter to Dr.
Lisle. No. 3.
p. 66, 7, 8.

And in the Convocations of 1597, 1605, and 1661, several Sessions were held, some Business entered upon, and Orders made before they had a Licence; which is asserted to be necessary, not "to enable the Clergy to consider of their Grievances, or to petition against them, not to make Addresses to the Prelates or the Prince, not to grant Subsidies, nor to deliberate of ecclesiastical Matters, (for without a Licence from the Crown, they may treat and confer upon such Matters as may be fit to be enacted by them, provided they do it with a View to apply to the Crown for a Licence,) but only to make and constitute Canons: And for such a Licence, whenever the King suffers the Convocation to sit, it would be no Trespass to apply."

V. This brief Recollection of the Practice and State of Synods, is sufficient to justify the Resolution of the lower House upon the Twenty-seventh of *January*, in 1741; and at the same Time to vindicate the Honour of the *English* Church from the catholic Historian's Imputation

tion of Slavery and Secularity. But as the exploded Calumnies of Papists are revived, and may gather Strength from the ill Success of our Synods since the Revolution; and as many great Misapprehensions about Synods are entertained, to the Disadvantage of the national Establishment in Church and State; a fuller View of synodical Rights, and the Expedience of using them at this Season, will better answer the Design of this Essay.

In this Inquiry it is unnecessary to investigate the Origin of spiritual Authority; some Degree of Liberty of Judgment is allowed to belong to every private Member of Christ's Church; and * our Laws have recognized, that some Degree of spiritual Authority is derived to the Bishops of this Church from the Word of God: the remaining Question is, What Bounds has our Constitution prescribed to Claims, that have certainly been carried into contrary Extremes?

Form of Ordination confirmed by the several Acts of Uniformity.

Now the Power of the Church is exemplified by the Rites and Ceremonies, Liturgy and Rules of Discipline, and its Authority by the Articles of Faith and Doctrine, prescribed as the Terms of Communion with it: on the other Hand, the Liberty of private Judgment is herein manifested, that this System of Faith and Discipline is not secreted from common View, the Rites are not inaccessible, the Doctrines are not *Mysteria Sacra*, but open to a fair Examination, Scrutiny, and Debate, with Impunity; so that here private Judgment steps in to search the Scriptures, and compare our Articles with what is written, and our Discipline with what was practised in the primitive Church, and to communicate by speaking, writing, and printing any Discoveries, that may tend to the Advancement of Truth.

But this Liberty is most usefully employed, when Men resort to the Synod; (as Christians of all Ranks and Orders have a Right to do,) state their Doubts and Objections, as often as they arise against the present Constitution; exert their Learning and Discoveries in Religion, to shew, that the Church hath erred in Doctrine and Discipline, and thereby contribute toward making her as pure as it is possible for her to be, in a State of Frailty.

By this Means private Judgment is reconciled with public Authority, as no Man can complain, that he is denied an Opportunity of bearing Witness for the Truth, or that the Weight of private Sentiments is over-balanced by the Power of an infallible Judge, holding the Members of Synod, or any Member of Christ's Church in a slavish Dependence on his Will.

Neither is this State of Things repugnant to civil Supremacy; for with that, any Degree of synodical Authority is consistent, even Legislation, if not exercised as an independent Right.

De Imp. sum.
Pot. c. 8. p.
192.

Grotius, after having asserted the Power of the civil Magistrate *circa Sacra*, proceeds thus to Synods — “*Neque hæc tamen obstant quo minus Facultas aliqua legislativa Ecclesiis, Pastoribus, Presbyteris, aut Synodis concedi possit humana Lege. Nam si aliis Cætibus aut Collegiis, quorum Utilitas neutiquam cum Ecclesia comparanda est, id Jus tribui potest à summâ Potestate, ut Experienciâ docui, cur non et Ecclesiæ? &c. Jus enim ferendarum legum, sive generalium, sive specialium, summa Potestas committere alteri potest, à se abdicare non potest.*”

It's an independent coercive Power in Synods, that 25 Henry VIII. was intended to restrain.

The Clergy had about the middle of the Reign of Henry II. detached themselves too far from

from the Crown, in Subordination to which they ought always to exercise their Office and Ministry; and some correctory Law thereupon became needful to reduce them to their proper Dependence upon it.

To this End 25 *Henry VIII.* was enacted, which being a correctory Law, must by the Rules of Exposition of Statutes for like Purposes, be understood to provide for such Excesses in the former Practice of Synods, as are plainly expressed, or were primarily intended by the Act, and for no other.

The Excesses specified in the Act, are, First, The assembling Convocations without the King's Writ. Secondly, The making and executing Canons, without his royal Assent and Licence. Thirdly, The having made and executed heretofore many Canons repugnant to the King's Supremacy, the Law of the Land, and onerous to his Majesty's Subjects.

The Corrections provided for the two first Excesses are, that the Clergy shall neither meet, nor when met in Convocation proceed to make Canons, without the Royal Assent first had; and for the third, that a Commission shall be appointed to review the Canons heretofore made, as soon as may be, and, in the mean Time, such as are in being, shall be executed as before, those only excepted as are contrariant to the King's Supremacy, and the Laws of the Land.

But besides these Excesses remarked and provided against in the Act, former Synods had exercised many other Powers, which escaped Animadversion in that Act, and have since fallen under unnecessary Restraint, through the Caution of those, to whom the Superintendence of their Execution is intrusted.

The Synod heretofore acted in the Capacity of a provincial Council, receiving Information and Complaints from all Parts of the Province, and thereupon offering Advice, Representations, Petitions, or Remonstrances, sometimes to the ordinary Administrators of the ecclesiastical Laws, at other Times to the King, his Council, or the Parliament, according as the Nature of the Exigence required. And, as the Words of this Statute keep at a Distance from these Powers, so the Intention of it (if the Intention of a correctory Law could be extended beyond the Letter, which it cannot,) falls short of reaching out any Restraint upon the Synod in this Instance; inasmuch as all these synodical Applications ultimately terminate in a Resort to the Crown; and, instead of being Evidences of an Inclination in the Clergy to Independence, (against which alone the Statute was intended to provide,) are, on the one Hand, so many Opportunities for exerting the Rights of private Judgment; and, on the other, so many Recognitions of the royal Supremacy, and of the Right of the Crown to defend and protect the established Church.

Whatever narrows the Bounds of Convocation, or restrains the Exercise of private Judgment therein, must in its Consequences annihilate the King's Supremacy, so far as it intercepts the previous Consideration of Matters, upon which the royal Fiat may afterwards operate; and agreeable to these Observations has been the Practice ever since the making the Statute, the royal Licence requisite for making new Canons, which some Men take to be an Indication of the absolute Disability of Synods, when unlicensed, being a clear Evidence of their Authority to proceed

proceed as a provincial Court and Council in all Matters, except the Conception of Canons.

VI. For most of our Synods, which have been specially authorized by Licence to make Canons, did likewise treat, debate, and come to synodical Resolutions upon other Matters, besides the making new Canons. And yet, whoever casts an Eye upon our two most an-

cient Licences under Seal in 1586, and * 1603, will find, that those Licences, are not a Commission to treat, debate, and conclude at large, but only upon certain Matters to be formed into Canons, or to be signified under the Privy Seal.

* Tho' the original Licence to the Convocation of the Province of *Canterbury* is not to be found, that for *York* is, and it is presumed they were both in the same Form.

The Inference from this Practice is, that there was understood to remain in the Synod, an ordinary inherent Power to treat upon any other Matters of ecclesiastical Concernment, for any other Purpose besides the making new Canons; because all or most licenced Synods, as appears by their Acts, have exercised Powers of a different Tendency from the specific Authority derived by royal Licence, or conveyed by the Privy Seal.

Again, from 1532, to 1664, the Clergy sometimes had, and at other Times had not Licences to treat, consent, and conclude upon Subsidies to be granted to the Crown; and the Reason of this Diversity was, that sometimes their Subsidies consented to in Synod, were intended to be established in Parliament; and at other Times, to be levied by Censures, that were of meer synodical Appointment.

In both Cases, there was synodical Debate, Conference, and Consent; but in the latter, only a Licence was requisite, because in that, and not in the former, their Debate, Confe-

rence, and Consent, was preparatory to the making new Canons.

VII. Moreover, the first Step to Business in Synod for the most Part, was to take in the Schedules of Reformation from the Diocesan Proctors; that is, Representations from every Part of the Province, of the Sense of the Clergy, by their Proctors, as to Matters that stood in Need of Regulation in each Diocese. This useful Practice was religiously observed thro' Queen *Elizabeth's* Reign: And when it was afterwards prætermitted, the lower House sometimes took a Review of the State of Discipline, and drew up Representations of it, in Order to induce the Governors of the Church to rectify what was amiss, in Matters that lay within the Verge of their ordinary Authority.

In this Way, the lower House in the Convocation of 1703, which had no Licence, made itself useful to the Public, by representing their Survey of the Province to the upper House; and his then Grace of *Canterbury* acceded so far to their Representation, as to give Orders for issuing Copies of it thro' the Province, "trusting, that the Bishops and Archdeacons would order themselves and their Jurisdictions accordingly."

VIII. But if Difficulties were discovered, for which no Remedy was provided by the Canons in being; in that Case, the Steps which it is the Duty of the Convocation to take, are pointed out by the Declaration printed before the Thirty-nine Articles; which is as follows.

"That we are supreme Governor of the Church of *England*; and that if any Difference arise about the external Policy, concerning the Injunctions, Canons, or other
"Con-

“ Constitutions whatsoever thereunto belong-
 “ ing, the Clergy in their Convocation is to
 “ order and settle them, having first obtained
 “ Leave under our broad Seal so to do ; and
 “ we approving their said Ordinances and
 “ Constitutions ; provided that none be made
 “ contrary to the Laws and Customs of the
 “ Land”.

“ That out of our princely Care, that the
 “ Churchmen may do the Work which is pro-
 “ per unto them ; the Bishops and Clergy
 “ from Time to Time in Convocation, upon
 “ their humble Desire shall have Licence under
 “ our broad Seal, to deliberate of, and to do
 “ all such Things, as being made plain by
 “ them, and assented unto by Us, shall con-
 “ cern the settled Continuance of the Doctrine
 “ and Discipline of the Church of *England*
 “ now established ; from which we will not
 “ endure any varying or departing in the least
 “ Degree”.

A Liberty of this Class, is distinguished by

Grotius from Jurisdiction, or * Le-
 gislation, under the Character of
Potestas suasoria, or Power of the
 same Species with that the Phy-
 sician claims over the Health of
 his Prince, the Advocate over the
 questionable Rights of his Client,
 or the moral Philosopher over
 the true Interest of his Coun-
 try. And it would be an un-
 accountable Discrimination, if,
 whilst the Rules of Prudence com-
 mand Attention to every Artist in
 rando, Pastor et Medicus Modo utroque : sed hos omnes Rex Imperio re-
 git, et quidem summo. Unde apud patres sæpe reperitur, Regem præ-
 esse Episcopo, Episcopum Regi. *Grotius de Imperio sum. Pot. p.75, 85.*

* Item Regimen iis com-
 petit, qui præsumt, Authori-
 tate suadendi, non jubendi
 Potestate, ut Medici, Juris-
 consulti, Consilarii, &c. Hi
 non proprie obligant, sed
 Occasionem Obligationi præ-
 bent, quatenus Notitiam ali-
 cui imprimunt, quæ Obliga-
 tionem parit, aut auget. Di-
 versum autem plane regendi
 Genere non mirum est eun-
 dem regere et regi. Nam
 Regem suadendo regit Con-
 siliarius, Juris naturalis peri-
 tus Legem divinam decla-
 rando, Pastor et Medicus Modo utroque : sed hos omnes Rex Imperio re-
 git, et quidem summo. Unde apud patres sæpe reperitur, Regem præ-
 esse Episcopo, Episcopum Regi. *Grotius de Imperio sum. Pot. p.75, 85.*

his own Science and Profession, the Clergy should alone be secluded from offering admonitory Supplications about Matters committed to their Charge.

How much stronger then is the Claim of the Clergy to this persuasive Power, if their Vocation is not, as other Professions are, of human Institution? But if the 25 Hen. VIII. hath left no Room in Convocation for Applications about the Concerns of Religion, precedent to a royal Licence, the Liberty of the Church, in Respect to Enquiries into the State of Religion, must be brought into as narrow a Compass, as the Freedom of capitular Elections in Virtue of a *Conge d'Elire* : Since a Licence to the Synod points out, prescribes, and limits the Matter to be formed into Canons, and assented to in Synod, as expressly as the *Conge d'Elire* recommends the Person to be elected by the Chapter ; so that, upon a Supposition, that nothing can be done in Synod without a Licence, the whole Order is inverted ; that is, they whose Profession it is to take heed, watch, premonish, instruct, and exhort, are no longer to exercise their Office of Overseers, but are to receive Motion from those, to whom it is their Duty to communicate it, and instead of Monitors, are turned into the Executors of predetermined Purposes and Councils.

IX. Or, if the Exigence was of such a Nature, as required a more effectual Provision than the Canons could give ; that is, if the Clergy were at any Time aggrieved in their Persons, Estates, or Jurisdictions, as secured by the Law of the Land ; it was then the Right, as well as Duty of the Synod to apply to the Crown or the Parliament for Relief ; and the Success of the numberless Petitions of this Kind,

Kind, still extant upon the Rolls of Parliament, are an Instruction to the Clergy of the present Age, what Measures they ought to take, whenever the Quakers, &c. shall renew their Attack upon any of those Liberties of the Church, which are established by *Magna Charta*.

During the Reigns of *Richard* the Second, *Henry* the Fourth, and *Henry* the Fifth, the Clergy were held together in Synod, much longer than in former Times : Because from an unquiet Faction there were * daily Suggestions then making to the Parliament, about the Concerns of Religion ; which, it was expedient the Body should be ready and at Hand to disprove. And it was the professed Maxim of Archbishop *Whitgift's* Government, to keep the Convocation Attentive to the intended Motions of the Puritans to Parliament.

* Cotton's
Records.

Strype's Life
of Whitgift.

For the 25 *Hen. VIII.* is not understood to have brought any Restraint upon the Synod, as to Petitions in this Way ; but left it unconfined, in Steps, that lead to the obtaining the Protection of Parliament.

X. Indeed the Freedom of our Constitution, admits of Applications to Parliament, from every individual of the Community, in a Matter of such universal Concernment, as the Establishment of a national Religion is : yet private Petitions from those who have no Authority to determine, or claim for the Church, what are legal Rights belonging to it, cannot be expected to have equal Weight in a *British* Parliament, with the Claims of a Synod, demanding those Liberties, with which it is intrusted, as the Representative of the Church.

In a political Sense the Synod is the Church, neither is the Church a Body politic in any other Capacity ; so that none of its Members have in
any

any other Character, Authority to represent it, or to act in right of the national Church. And this Consideration must render this Branch of synodical Power invaluable to the Clergy, especially at a Time when it is thought expedient to provide against the Endeavours of the Quakers to prejudice the Revenues; and the confederate Councils of other Sects to impair the Securities of the Church as by Law established.

In such a Crisis, every Aid is to be called in, as well from the private Pens of our ablest Writers, as from the Weight, Influence, and Sollicitations of Men in public Stations in the Church; but the surest Resource is, in the ancient, long experienced Method of Defence, by Petition to Parliament, from the Clergy le-

* Grotius asserts, That Synods derive their Origin *de Jure Natura*, like other Societies or Incorporations, which have a Right to advance the Interest of their Profession by common Consultations, so far as they are consistent with the Laws of the Country. Grot. de Imper. Sum. Potest. C. 7. S. 2.

gally * united in Synod, (for in Synod only they can legally unite,) and asserting a Right in the Church, as re-established by *Magna Charta*, to Tythes and a Test, inasmuch as those Rights are necessarily implied in the Establishment of a national Church.

A Method of Defence, not only more likely to repel the Attacks of a powerful Confederacy, than either the Stroke of a Pen, or the Agency of unauthorized Solicitors, but more agreeable to the Nature of these Rights, considered as distinguished from private Interests.

They are Rights of a publick Nature; Individuals may intervene, when these are brought into Question, so far as they are particularly concerned therein; but the Synod, being the Representative of the Church, is solely empowered to claim them in right of the Church, and upon the Foot of their original Settlement.

May

May the Return of the Spirit of Unity upon our Synods, enable them to resume a Practice, which, from the Date of *Magna Charta*, hath been oft-times favoured in Parliament and by the Crown.

Neither have Representations from the Synod to Parliament, been confined meerly to Matters already settled by Law; but have extended to Things, wherein civil Sanctions were apprehended to be needful; and seldom failed of Success.

Most of the Acts, upon which the Reformation proceeded; passed in this Course; and the Imputations of Papiſts and Freethinkers upon our Ministry and Offices, as of meer parliamentary Creation, may be obviated by a Reference to this Power in our Synods, to represent to the Parliament the State and Exigences of Religion. A Power, upon the Exercise of which, there is no Pretence to say Restraint is laid by the 25 *Hen. VIII.*

XI. Nor is the judiciary Power of the Synod impaired by that Statute; so far from it, that it seems to be effectually saved by the following Proviso, *viz.* “ Provided that such Canons, &c. being “ already made, which be not repugnant “ to the Laws of the Land, &c. shall now still “ be used and executed, as they were before “ the making of this Act, &c.”

This Provision respects all Courts alike, and the Judicature of Convocation is to be ascertained by the common Standard, *viz.* by the Records of the Practice that obtained, before the making of this Act: So that those Canons which were executed in Convocation, as well for the Correction of many Offences and Enormities of a public Nature, as for the Determination of Controversies of general Concernment,

ment, such as the interfering Claims between Prelates, as to the Extent and Use of their Privileges and Jurisdictions, are to be executed as heretofore, that is, without Licence.

In the *Gallic* and *Spanish* Churches, Questions touching Faith and Doctrine, or the Administration of Jurisdiction by their Prelates, were called *Cause communes*, Matters affecting the common Cause of Religion, to be decided by common Deliberation.

In Truth, a Church divested of all synodical Judicature in such Cases, must deviate very far from the primitive Plan of Discipline; and it was happy for our ecclesiastical Constitution, that the Synod was left in its ancient State, to execute, as a provincial Court, the Canons then in being; because the Act which passed afterwards for dissolving the High-Commission Court, makes it a doubtful Point, whether the Convocation is not incapacitated to exercise any Judicature, accruing in Virtue of a Licence from the Crown. If it has ordinary Jurisdiction, a Licence seems superfluous: If it has not ordinary Jurisdiction, it would be hazardous to distinguish between a Licence and a Commission from the Crown for the Exercise of it; that is, a Synod acting in a judicial Way, by Virtue of a Licence, might by Construction be made an High-Commission Court.

XII. The Sum of what has been said, amounts to this. That there is no defect of Power in our Synods, except as to the Conception of Canons; and that the Restraint upon them, in that particular, ought not to be deemed a Defect; not only, in that it results from the Protection we enjoy under his Majesty's Supremacy, and exceeds not the Limitations prescribed by Christian Princes to Councils in the earliest Ages of

of the Church; but chiefly, because that Restraint is, by our Constitution, always to be taken off, whensoever “ the Bishops and Clergy, being conscientiously disposed to do the Work that is proper for them, shall make humble Request to the Crown for that Purpose”

Declar. prefixed to the Articles of the Ch. of England.

XIII. On the other Hand, suppose (as some Members of the lower House were pleased to suppose) our Synod whilst unlicensed, without Authority, to enter into Consideration of Business, would the Interest of Religion be advanced by narrowing the Bounds of the Synod? Yes, in the Judgment of the *independent Whig*, and of the Author of the *Rights of the Church*, the Christian State would be much enlarged by a total Suppression of Synods: Nay, his Holiness was always disposed to ease the Prelates in every Province of Christendom, of this Part of their pastoral Care, and to take the whole Weight of Religion upon his own Hands. Or would it be for the Benefit of the Clergy, to be exonerated from their synodical Duty and Attendance? In other Words, would the Clergy be better established, if, when accused, nay conscious of, and confessing Disorders in their own Body, they are not left at Liberty to proceed to reform them, or so much as to petition to have them reformed; feeling, seeing, and knowing the Exigences of their Profession, and the proper Methods of Redress, are restrained from all Opportunities, except such as the Pulpit may supply, and the Spirit and Courage of the Preacher to the Synod may take, of representing their own Sense of Things? Sensible of great Inroachments already made upon their Rights, apprehensive of greater; are helpless, defenceless, and even liable to greater Danger in taking any

any Steps to sue for, and humbly request Relief, than in lying naked, open, and exposed to adversary Attacks?

This is the State of the Clergy of the established Church; who, attacked by Confederacies, can enter into no common Councils, or Concert, as a national Clergy, for the Defence of their Establishment, as some Men have been pleased to suppose. Strange, that they should not discern, what Approaches they made towards that State of Slavery, with which they are reproached by Papists!

XIV. Nor would the Injury be much less, in respect to the Laity. For if Men are precluded all access to the Synod, and the Means of conveying useful Lights and Information; what avails their Liberty of private Judgment, but to produce a Chaos of interfering Opinions? But if no Power upon Earth is too great to listen to, and obey Truth, whencesoever it comes; then the Synod is obliged, not only to hearken to, but to reform, upon the Conviction it may receive from private Information. Nor would it sound like a Christian Oracle, for the Synod to reply, we are restrained by the 25 *Hen. VIII.* not only from receiving your Reasons, but from requesting an Opportunity to receive them; because such an Answer would make it more difficult, than in a free State and Protestant Church it ought to be, to reconcile the Obligation to obey the Canons; and to comply with the Terms of Communion prescribed by the Church, with the Freedom of private Judgment.

The Church is to judge; but then it ought first to hear the Matters in Judgment, and the Parties to be bound by it.

The Difference between *Charles* the Fifth, and the *German* Princes, was not about the State of the Church, and the Necessity of a Reformation; nor about the Expedience of a national Council, to reduce Things to Order. The Corruptions were too great to admit of a Diversity of Opinions, and a national Council was the only Remedy, till a general and free Council could be convened. But they could not be brought to one Mind about the Nature and Constitution of this Council; the Emperor insisting, that the Right of Inquiry, Examination, and Debate about the Concerns of Religion, was the peculiar Province of the Clergy: Whilst the Princes insisted, that all Ranks of Men were interested in Determinations about Religion, and by the Word of God, and the primitive Practice of the Church had a Right to intervene. So that the Right to free Discussion upon religious Establishments, was the Hinge, upon which Protestantism turned originally: And to the continued Exercise of it, must Synods stand indebted for the Fruits of a willing Obedience to their Determinations, no less than for the Preservation of their Character, as distinguished from Popish Cabals.

Sleid. Comment, &
Grot. de Imper. summ.
Poteft. c. 5.

No reasonable Doubt was ever entertained, whether the Laity were not bound by the Canons of the Council of *Gloveshoe* in 747, tho' it was convened by Ecclesiastical Authority, and was a meer Ecclesiastical Assembly, as much as the Synod of 1741; and the Reason is, because it was a free Synod, open to Representations from all Men. Neither the Clergy, nor Laity who chose to be present, (as the King with his Princes and Dukes did,) and had any Thing to communicate, were precluded the Opportunity: Therefore all Men were concluded,
by

Spelman.

by its Judgments, as being the Decrees of the proper Judge, after hearing all Persons concerned in the Cause. But to expect, that (when the Synod was turned into a Conclave, and the Laity excluded, as they afterwards were, from all Access to it) obtruded Decrees should be swallowed down with the same Satisfaction, as Men express towards Rules, in Conception of which a Regard is paid to their Sense of Things, is to advance too far upon the Complaisance of Mankind; further than was practiced in the Reigns of Queen *Elizabeth*, King *James* the First, King *Charles* the First, and the Beginning of the Reign of King *Charles* the Second; when it was held to be the Right of every Member of the Community, to propose his Doubts to the Synod; at least, the Synod paid so much Deference to the common Claims of Humanity, as to attend to Applications about the State of the Church and Clergy, whencesoever they came. Nay, in 1586, the Convocation offered to maintain by public Disputation, that the *Puritans* Platform of Discipline, then much defecated upon, was absurd in Divinity, and dangerous to the State.

And herein consists the comparative Freedom of our Constitution, notwithstanding the many Penal Laws, Injunctions, and Proclamations against the Writers of schismatical and seditious Books, from the Beginning of the Reformation, to the passing the Act of Toleration, that to *Puritans* and *Papists* free Conferences were allowed upon the controverted Points, as often as they were seasonably requested.

Was it thus in general Councils? The contrary hath been proved. Was free Debate allowed in Queen *Mary's* Synods? The contrary hath been proved. On the other Hand, after
free

free Debate had been held with Papists in 1549, and 1559, and a full Consideration been given to the Petitions of the *Puritans* in the * Synod * Concil v. 4. of 1562, and in other Synods, free Conference from p. 232, was allowed to Protestant Dissenters, in 1573 at to p. 242. *Lambeth*, in 1603 at *Hampton-Court*, and in 1661 at the *Savoy*.

But the Freedom, as well as Moderation of synodical Proceedings is clearly set out in the Preface to the Common-Prayer. The Words are, " By what undue Means, and for what mischievous Purposes the Use of the Liturgy (tho' enjoined by the Laws of the Land, and those Laws never yet repealed) came, during the late unhappy Confusions, to be discontinued, is too well known to the World, and we are not willing here to remember. But when upon his Majesty's happy Restoration, it seemed probable, that amongst other Things, the Use of the Liturgy also would return of Course, (the same having never been legally abolished) unless some timely Means were used to prevent it; those Men who under the late usurped Powers had made it a great Part of their Business to render their People disaffected thereunto, saw themselves in Point of Reputation and Interest concerned (unless they would freely acknowledge themselves to have erred, which such Men are very hardly brought to do) with their utmost Endeavours to hinder the Restitution thereof. In Order whereunto divers Pamphlets were published against the Book of Common-Prayer, the old Objections mustered up, with the Addition of some new ones more than formerly had been made, to make the Number swell. In fine, great Importunities were used to his sacred Majesty, that the said Book might be revised,

Q

" and

“ and such Alterations therein, and Addi-
 “ tions thereunto made, as should be thought
 “ requisite for the Ease of tender Consciences :
 “ Whereunto his Majesty, out of his pious In-
 “ clination to give Satisfaction (so far as could
 “ be reasonably expected) to all his Subjects, of
 “ what perswasion soever, did graciously con-
 “ descend.

“ In which Review we have endeavoured to
 “ observe the like Moderation, as we find to
 “ have been used in the like Case in former
 “ Times. And therefore of the sundry Alter-
 “ ations proposed unto us, we have rejected all
 “ such as were either of dangerous Consequence,
 “ (as secretly striking at some established Doc-
 “ trine, or laudable Practice of the Church of
 “ *England*, or indeed of the whole Catholic
 “ Church of Christ) or else of no Consequence
 “ at all, but utterly frivolous and vain. But
 “ such Alterations as were tendered to us (*by*
 “ *what Persons, under what Pretences, or to*
 “ *what Purpose soever tendered*) as seemed to
 “ us in any Degree requisite, or expedient, we
 “ have willingly, and of our own accord as-
 “ sented thereunto.”

Therefore when Papists and Protestant Dis-
 senters, instead of exerting the Force of Reason,
 in such Ways as the Laws allowed, to point out
 the Deficiencies of Ecclesiastical Establishments,
 preferred the unfair Arts of Ridicule and False-
 colouring, of Misrepresentation and Calumny
 thro’ the Press, to the Use of fair Argument
 and free Debate ; here Penalties were interposed,
 to prevent the Mischiefs, which the State might
 well apprehend from this Abuse of Liberty, and
 the Lenity of the Government ; and to confine
 the Exercise of private Judgment to the Bounds
 of Equity, Candour, and Decency, expedient

to

to be observed, not merely for their own Sake, but for preserving the Peace and Quiet of the Nation.

Had the Doors of the Privy Council, or Synod, been shut against Petitions, or free Conference and Debate denied, it would be difficult to find a Reason to justify one Penal Law about Religion; nay, if no Penalties were enacted, yet the Construction of 25 *Hen. VIII.* into a Meaning that precludes a free Disquisition in Synod, must in its Consequence debar the Laity of an Opportunity to interpose their Sentiments and Requests, and subject them to implicit Obedience.

The Conclusion from hence is, that before the Toleration, the Freedom of our Ecclesiastical Constitution was distinguished by Liberty of Debate, and free Conferences upon Points of Doctrine and Discipline, previous to any Synodical Determinations about them: And, after the Toleration, by a Liberty to dissent with Impunity from them.

Whereas general Councils, however unrestrained from without, fell under the Bondage of their own Corruptions, * over-aw'd by Threatenings, * perverted by Promises, purchased by * Pensions from *Rome*; and consequently possessed nothing but a Phantom of Liberty, to delude the World into a Belief, that their Decrees in Compliance with Suggestions from the Conclave were the Result of free Consultations amongst the Fathers, guided and assisted by the Operations of the Holy Spirit.

Had due Weight been given to these Considerations at * *Dort*, the Synod there would have escaped Reprehensions from † *Papists*. They ought to have foreseen, that since Protestants look'd upon general Councils (which

* Hist. of the Council of Trent, by F. Paul, p. 153, 167, 422, 503, 4, 526, 560, 9, 580, 5, 607, 620, 1, 8, 633, 5, 644, 5, 678, and Preface to Jurieu's Hist. of the same Council.

* Brandt.
† Cath. Hist. v. 2. p. 330.

were free from civil Coercion) as enslaved by Ecclesiastical Intrigue and Partiality, this Observation would be retorted, whenever Silence or undue Restraint was imposed in Protestant Synods, by the Suffrage of the Clergy themselves.

It will not suffice for the Maintenance, or Vindication of Protestantism, that Liberty of Judgment subsists in Opinion, or in Books, or even in Charters, unless it is carried into Use, and verified by Practice: The Protestant Clergy therefore, in Order to be distinguished from the Pope's Mercenaries, must not content themselves with the meer Amusements of Ideal Liberty, but use real Freedom of Debate; and to the Honour of the *English* Clergy, this appears to have been the Course of their Synods from the Reformation to the Revolution, as far as the Nature of our Constitution, and the State of the Times would admit, and as often as the Exigences of Religion made Synodical Consultations seasonable.

XV. As to the Point, how far a *Review of Ecclesiastical Administrations was seasonable in the Synod of 1741*, that may be rendered very problematical; for nothing is more difficult to settle, than a Season for Considerations of the State of Religion; if Mens Bent and Impulse is turned to other Designs. The Dangers of War, the Fear of Pestilence, the Approach of Lent, the Heats of Summer, the Divisions amongst Christian Princes, or an Apprehension of offending the Emperor by the Decrees of the Council, which might be understood to trench on his Authority, passed for good Reason at *Trent* with the unwilling Fathers against the seasonableness of that Council: Yet the Scale was notoriously turned, and long Prorogations obtained, not by the Weight of these Reasons, but by

by the Influence and Intrigue of the Court of Rome.

But if the Reason for the frequent Use of Synods in the primitive Church is made the Criterion of the seasonableness of using them in after Times ; there would be no Difficulty in demonstrating the Expedience of entering upon Business in Synod, at the present Opportunity : For it is not to be doubted, but the Ground of that Policy was to accommodate the Order and Discipline of the Church, to the variable State of Things, the Temper of different Nations, the Sentiments and Manners of different Ages, and to introduce a more gentle, or strict Regimen, proportionate to what the Times would bear, and to what Men might be brought to comply.

And from a Consideration of this Reason, results a perpetual Direction for the seasonable Use of this Authority ; that is, to use it as often as new Customs, or new Notions, appear upon the Borders of Morality and Religion ; or new Laws in the civil Constitution render the Orders of the Church then subsisting, less useful or practicable.

With this View of preventing every growing Evil, and all Interferings between the Church and State, Frequency of Synods was established in the primitive Church ; and from that Plan was transplanted into our national Constitution, becoming by immemorial Usage, a legal Branch of it.

For notwithstanding the Rapine and Depredations of the *Danes* upon our Island, during the Line of our Saxon Princes ; the unquiet State of Things, in the Reign of *William* and *Henry* the First ; the Contention for the Crown, during the Reign of King *Stephen* ; the Contro-

* If the catholic Historian had shown, that the Protestant Clergy licenced by King *James* in a free Synod, had declined a fair Inquiry into the State of Religion, this would have been a Fact much to his Purpose. But that Prince knew free Parliaments, and free Synods were equally adverse to arbitrary Measures in Church and State, therefore he discountenanced both alike.

† De Imperio sum. Po-
test. c. 7.

versies about the Bounds of civil and ecclesiastical Jurisdiction under *Henry* the Second; the Absence, and Interregnum of *Richard* the First; the Barons Wars, during the Reigns of King *John*, and *Henry* the Third; the *Scotch* and *French* Wars, with a Mixture of domestic Dissatisfaction, under *Edward* the First, Second, and Third; the disorderly and misadvised Administration of *Richard* the Second; the various Plots and Intrigues against *Henry* the Fourth, complicated with a *Scotch* War; the important Enterprize against *France* by *Henry* the Fifth; the Minority of *Henry* the Sixth, involved in a *French* War, and his advanced Years with the Claims of the House of *York*; the Competitions for the Crown between the Houses of *York* and *Lancaster* thro' the succeeding Reigns, to the Union of the Families in *Henry* the Eighth, some Provisions about Religion were thro' all those Contrasts, and in the different Circumstances of the several Reigns, thought seasonable by the Clergy, and allowed by the Crown.

Neither hath there been any Prince, since the Restraint put upon the Clergy from acting without Licence from the Crown, above Two hundred Years ago, who did not take off that Restraint by granting the necessary Licence, or Commission, except the unfortunate * King *James* the Second: Unfortunate, if on no other, yet on this Account, that Synods were disused in his Reign; for the Characteristic, which *Grotius* gives of unhappy Times is, "*Non quidem optimus est Ecclesie + Status, in quo Synodi haberi omnino non possint.*"

XVI. This Criterion was not antiquated upon the Reformation, but considerably improved by the Restitution of the Supremacy to the Crown. For,

Synods,

Synods, so long as they were wont to be assembled by meer Ecclesiastical Authority, might in unsettled Times be suspected by Princes, of mistaking the Seasons proper for the Consideration of Ecclesiastical Matters, and of adding the Zeal of Religion to the Heat and Passion of factious Designs. But there was no Room for this Apprehension after the Reformation, when the Continuance and Discontinuance of Synods, depended upon the Pleasure of the Prince, as supreme Moderator of Ecclesiastical, as well as civil Affairs; he might, and some Times did prorogue Synods, as soon as they were met, and at other Times commanded their Attendance, and held them together for a considerable Space.

The Spring of these different Motions, is the Advancement of Religion and Learning, in Conjunction with the Welfare of the State, of which united Interest the Clergy could be but partial Judges; and consequently, since the Crown hath resumed the supreme Direction of both, there now remains nothing in the Criterion of the Expedience of Synods, that is precarious; because, after a royal Prorogation, the Clergy cannot be chargeable with pretermittting the Vigilance incumbent on the Overseers of the Church: Nor, upon the Commands of the Crown to attend in Synod, be suspected of entering unseasonably into the Consideration of the State of Religion.

For a Discontinuance of the Synod by the Prince, pre-supposes his Judgment, as to the Expedience of adjourning synodical Debates to a more convenient Opportunity; and his Continuance of it implies his Sentiments of the Fiteness of the present Season, and his Readiness to receive the Advice of his Clergy, as to the

Means of administering Protection to that Church, of which the Providence of God has appointed him Defender.

If a dissolved Synod should enter upon synodical Inquiries ; or a Clergy, detained for many Months from their ordinary Duty, for this extraordinary Service, decline all Approach to Business ; what avails the Restitution of the Supremacy to the Crown ?

Less Weight therefore cannot be laid upon the Continuance of a Synod, under the Royal Writ, than to receive it as a Declaration by Authority, that there are no Reasons of State arising from the Posture of our civil Administration, that render synodical Consultations unseasonable ; and consequently, that the Clergy are at Liberty to determine, from a Consideration of the Nature of the Authority with which they are entrusted, whether the Use of it is now seasonable.

XVII. And if this Question is to be determined by the Criterion before-mentioned, *viz.* whether any considerable Changes have happened in Mens Manners and Sentiments, or in the Laws of the Land, since the last synodical Regulations, there is a very strong Presumption, that a synodical Review of the State of Religion would be as seasonable at present, as in any Period of the Christian Era ; because no Instance can be given, of the Use of one Body of Canons in any national Church, for one hundred and forty Years without any synodical Reform, except in this Church ; and therefore how perfect soever the System of Canons was in 1603, yet whatever is variable in the State of the Church, may be presumed to have varied within this Period in some Degree ; and so far at least, as that the same Rules may be less adequate

quate to the present State of Opinions, Manners, Acts of Parliament and Decisions of Courts of Judicature, than upon their first Establishment.

XVIII. Neither is this a groundless Presumption; for since that Time Socinianism, Quakerism, Methodism, and Schools for Propagating the Seeds of Schism have got footing here; Papists likewise have renewed their Attacks: Moreover the High-Commission-Court and Oath *Ex Officio* have been put down, a Toleration established, and a great Part of the Canons of 1603 become impracticable. Can it be said, that it was the Practice of the primitive Fathers, to pass over Emergences of such Consequence to Religion unconsidered?

And yet these Articles are of little Weight in Comparison of the greater Exigences left unprovided for by the Canons of 1603; those Canons were chiefly adapted to the Alterations which happened since the Separation from *Rome*, leaving the former Grievances in the ecclesiastical Administration (that is, such as had been growing from the twelfth Century to the Year 1533, and produced the Separation from *Rome*) to the Course of Regulation prescribed by the 25 *Henry VIII.* which hath not yet been completed. Is it then seasonable to stir that Mass now, and give it a fresh Ferment? especially whilst Protestant Dissenters, who cannot comply with the present Order of the Church, are quieted in their Non-conformity?

XIX. To this Question (the Terms of which intimate the expedience of consulting, how far the Peace and Tranquillity of the Nation may be affected by synodical Regulations) it may be answered, that if Dissenters were contented with the Lenity they enjoy; if they forbore to make

Advances

Advances upon the Establishment ; connived at Irregularities in the Government of the Church, which it has but lately been in the Power of Churchmen to consider of Means to remove, neither endeavouring to asperse its Administrations, impair its Revenues, nor undermine its Securities, the Motives for synodical Regulations would certainly be less urgent ; but if the tolerated Sects, however divided in Judgment or Interest, combine to take Advantage of the unsettled State of the Church ; if the concealed Socinian strengthens his Exception against the Use of spiritual Censures in the Church, by Observations upon the Misapplication of Excommunication ; the Quaker furnishes himself with Pleas against the Recovery of Tythes in ecclesiastical Courts, by the dilatory, expensive, and precarious Rules of Practice there ; the Methodist palliates his voluntary and uncommanded Severity, by Imputations of a Want of regular Discipline in the Church ; the Presbyterian covers his Sin of Schism, by the Continuance of those Grievances in a Protestant Church, which gave Occasion to the Separation from *Rome* ; and the Abettors of arbitrary Principles conspire with the Republican to repeal the Test Acts, and ridicule the Decline of Power and Authority in Prelacy, which hath always been exerted to preserve the Balance of the Constitution, defend the legal Rights of the Crown, and Liberties of a free People ; in these Circumstances, the Way to Peace and Security is to attend to Demands of Redress of the offensive Disorders ; that is, of such as gave Occasion to the Separation from *Rome* ; and were not intended to be retained in the succeeding Settlement.

This was the Scheme at the Revolution. And can there be any Ground to doubt, whether

ther it is seasonable to render the established Church irreproachable, and Schism and Faction inexcusable, by a Compliance with just Exceptions against some Parts of the Ecclesiastical Administration?

The millenary Petition complained of the longfomeness of Causes in ecclesiastical Courts; a Complaint too well founded to admit of Palliation; and yet there is Demonstration that expedite Methods were more offensive to the Petitioners, than the dilatory Practice which was justly exceptionable. For the sole Refuge of Sectaries, whilst they were prosecuted for Non-Conformity, consisted in the Opportunities of defeating Justice, supplied by a length of judicary Proceedings.

The Advantage therefore they received by Delay, would of itself be an Evidence, that they could not really be offended at it, if it had been the Turn of Sectaries to be thankful for the Protection they enjoy. But this Observation is not wholly supported upon that Reliance; for greater Outcries were made by Non-Conformists against a Denial of Appeals, and the High-Commission-Court, which went into summary Methods of Justice, than against the Dilatoriness of inferior Judicatures.

Thus they complained of the Remedy no less than the Disease. Upon the whole, nothing would more effectually unvail the Iniquity of Popery, and Unreasonableness, Obstinacy, and Perverseness of Schism amongst Protestants, than a Consideration of the just Exceptions against the Ecclesiastical Administration.

XX. If these Observations are not sufficient to evince the Seasonableness of a synodical Inquiry into the State of the Church, yet this Question is determined by Authority: It was seasonable

seasonable to enter upon Business in Synod, because the King, as sole and supreme Judge, was pleased to command the Clergy to attend, for above Six Months, in Synod.

XXI. Lastly, as the present Impotence of the Clergy, the Imperfection of the ecclesiastical Laws, and the blundering Practice of ecclesiastical Courts, are made the Scorn and Contempt of Papists, a seasonable Execution of synodical Power must be the only Way to raise the Reputation, and prevent the absolute Extinction of ecclesiastical Authority.

It was represented to the Arch-Bishop and Bishops, near forty Years ago, by the lower House, "That many irregular Customs and Usages were then growing up, which might, in Time, be interpreted to amount to a Prescription, and thereby the Force and Authority of the Canons be evaded, the Clergy lose their undoubted Rights, and be involved in fruitless Contests and Law Suits with their Parishioners".

Nor is it yet made evident to the World, that any Endeavours in Synod, to put a Stop to the Progress of the Evils then apprehended, have been effectual.

And this Observation of the dangerous Tendency of ill Precedents, is of itself an Argument of the Expedience of entering upon Business in Synod, if for no other Respect, yet merely for preserving the Rights of the Synod. For, tho' in Theory, a Protestant Church divested of Freedom of Inquiry in Matters of Religion, may seem a Contradiction in *Terminis*: yet should a Synod under no Restraint from the secular Power, once decline all Consideration of the State of the Church, and the Admission of Informations on the Part of the Clergy or Laity, such

such a Foundation would be laid, as might in Time produce a new Phænomenon in the Christian Church, an Assembly of Protestant Divines formally called, and held together for many Months, to the End that they should not concert any Thing for the Benefit of Religion.

The Supposition of a Practice, condemned as an Abuse, being persisted in because once begun, and continued on, till the Strength of Precedent superseded the original Right, is realized almost in every Page of ecclesiastical History; but I shall mention only a domestic Instance or two.

The First is, the Case of the Clergy in respect to the *Præmunientes* Writ, or Summons to Parliament, as in Use at this Day.

At whatsoever Date the Commons took their Seat in Parliament, whether in the Saxon Times, or in the Reign of Henry the Third, it may be proved with sufficient clearness, that, at the same Time, the inferior Clergy came and enjoyed the same Rights in it: And in the Twenty-third of Edward the First, when the Writ was first issued to the Sheriff of each County, to return a certain Number of Knights, Citizens, and Burgeses; by another Writ to the Bishop, called the *Præmunientes*, the Proctors of the inferior Clergy were likewise summoned to Parliament for the same Purposes, and sometimes in the same Words.

But most of the Clergy entertaining wrong Notions of the Exemption of Ecclesiastics from temporal Authority, took all excusable Opportunities to decline attending in Parliament according to their Summons: And about the Reign of Henry the Sixth, discontinuing it wholly, are now by Disuser absolutely excluded, tho' they are still expressly mentioned in the Writ of Summons, pursuant to ancient Usage.

Here

Here the Continuance of Forms, that were once significant, does not avail to preserve the Rights, to which they gave Life and Motion originally, and now only exist as a Monument of the Ruins of neglected Privileges.

And in this Instance, there is a Circumstance that cannot but make the Clergy particularly solicitous about the Preservation of their Rights in Synod; which is, that the *Premunientes* Writ is an Evidence, that the Clergy are not, and never were represented in Parliament by the Bishop; nor at this Day by the Knights for Shires, in their ecclesiastical Capacity; because they who are present themselves in Parliament, as by the Writ of Summons the Proctors of the Clergy are yet presumed to be, cannot be supposed to be represented by others.

From whence it follows; that, as every Degree of Liberty terminates ultimately in some Share of legislative Power; the Clergy, as such, are no further free, than in Respect of their synodical Privilege, but are struck out of the Constitution by the Suspence of it; and all their Liberties, which make so splendid a Figure in *Magna Charta*, depend upon the Preservation of the Remains of Right in Convocation.

The other Instance arises from the present Method of imposing Taxes on the Clergy.

It is well known that the Revenues of the Clergy were, before the Conquest, discharged of *Dane-gelt*, and other public Tributes, as eleemosynary Estates, and upon the Foot that Hospitals of ancient Foundation now stand. Therefore when the King in 1207, requested a Subsidy from the beneficed Clergy, and out of the Rents of their Benefices; It was answered, " That this was an unheard-of Demand, and never

“ never yet exacted from the Clergy of *England*”. But soon after the Clergy were prevailed upon to supply the King’s Occasions thro’ the Intervention of the Pope; yet to preserve their former Privilege, the Subsidy was accompanied with a most gracious Assurance under the broad Seal, that this Concession should not be drawn into Example, and turned to the Prejudice of the Liberty of the Church of *England*.

What followed? One more urgent Necessity still pressed upon the Heels of the former, and every precedent Compliance strengthened the Pretence to a future Demand; till, in less than thirty Years, a Subsidy became not only an establish’d Claim upon the Clergy, but assessed and levied without their Consent; as appears by the Annals of *Burton*, in the Complaints of the Proctors of the Diocese of *Lincoln*, for the Parliament in 1253.

Upon this Complaint, the Clergy were restored to the common Right of other Subjects, the Right of Disposal of their own Money; and were not chargeable for the Space of something more than four hundred Years, with any Subsidies, but such as they consented to by their own Proctors; who, in the Exercise of this Trust, gave frequent Testimonies of the Adherence of the Clergy to the true Interest of their Country, and often withheld their Subsidies, that national Grievances might first be redressed; till about the Year 1664, it was agreed, not formally, or by the Consent of the Clergy in Synod; but tacitly, perhaps between the then Ministry and some leading Men in the Church, that for one Year, the Proctors of the Clergy should pretermitt the Consideration of their Subsidy in Convocation, and be concluded in the

ge-

general Act, for granting a royal Aid to the King's most gracious Majesty. Nevertheless, to prevent any possible Injury to the Church by this Step out of the ordinary Course, a Proviso was interposed in the Act, " That nothing
 " herein Contained, shall be drawn into Exam-
 " ple, to the Prejudice, &c. of the ancient
 " Rights of the Clergy of this Realm".

Now whoever reflects upon the Effects of these Precedents, tho' guarded against, the one by a Proviso under the broad Seal, the other in an Act of Parliament ; may think it not impossible, but that one Instance of the Clergy in Synod, suspending the Use of their ancient Authority in Matters of Religion, and declining, what without Doors may be called by those who are not in the Secret, their necessary Duty, may bring a total Disability on all future Synods, devolve the Care of Religion upon other Hands, and verify the Catholic Historian's Assertion, " That whatever (Protestant)
 " Divines may say, it is certain in Practice,
 " that the Clergy of the Church of *England* are
 " not allowed any Power, &c.

Before the Embarrassments of *Charles* the First, the Intervention of Parliament in Matters of Religion, for the most Part proceeded upon previous Applications from the Synod : And whenever the Clergy desist from that Course of synodical Applications, as well as from the Use of their other Powers, they take large Steps to set this Church upon a Foundation, different from what it stood upon before.

But surely it behoves them to be cautious of exhibiting themselves a motionless Spectacle to the Public, (even supposing the present System of Doctrine and Discipline was so perfect in itself, and the Sentiments and Manners of his Majesty's

Majesty's Subjects so conformable to it, as to abate the Urgency of Business :) Left the venerable Synod, if it once condescends to make a meer dumb Shew of the Piety, Prudence, and Fortitude of former Synods, should for ever want Power to resume its original Integrity and Perfection.

XXII. These Observations therefore, which vindicate the Constitution of this Church in general, concur likewise to justify the Members of the lower House on the 27th of *Jan.* 1741, by shewing their Authority to act, and the Expediency of their using it. Nevertheless, on the next Session, which was intimated to be held on the 5th of *March*, when the Archdeacon of *Lincoln* attended with a Specification of certain Matters to be offered to their Consideration, pursuant to Order, a Resolution of a very intricate Nature was taken.

For the Dean of *Winchester* was pleased to move, " That the Propositions prepared by the Archdeacon, in Obedience to the House, should not be received ; " and the House agreed to his Motion, rejecting them unexamined, undiscussed, unread.

The Propositions were as follows :

" *A Specification* of certain Matters concerning ecclesiastical Courts, and clandestine Marriages, and the Qualifications of Persons to be admitted into Holy Orders ; and the Titles and Salaries of Curates ; for the Consideration of the lower House of Convocation, pursuant to an Order of the Twenty-seventh of *January* last.

1. " That the dilatory Proceedings in ecclesiastical Courts are a Delay of Justice, and of great Expence and Vexation to the Subject."

R

2. " That

2. "That the Admission of Appeals by the Court of Arches, from Interlocutory Decrees of Inferior Courts, in Causes of Correction, is a great Obstruction to the necessary Exercise of Discipline."

3. "That the Practice of granting Marriage Licences to Persons unknown, or when one, or both of them, is but casually resident in the Jurisdiction, without Letters Testimonial of the Ordinary of the Place from whence they come, opens a Door for clandestine Marriages."

4. "That Complaints are made of a Claim of the Prerogative [or other] Courts of *Canterbury*, to exercise concurrent Jurisdiction thro' the Province, in the Probate of Wills, and the Grant of Marriage Licences: And, inasmuch as such Claim may prove a great Discouragement to the Officers of Inferior Courts, whose Assistance, in the Exercise of *Diocesan* Jurisdiction, is necessary; it is submitted to the Consideration of this House, how far an Enquiry ought to be made, whether the Prerogative [or other] Courts claim a Right to grant Marriage Licences to the Subjects of other Bishops; or to prove Wills, when the Testators Effects lye within the Jurisdiction of one Bishop."

5. "That the Omission of Governors, and other Members of [some] Colleges, to sign Testimonials, or therein to certify their Belief of the Fitness of the Person for the Order, Office, or Employment, to which he desires to be admitted, renders their Testimonials less useful and effectual."

6. "That giving fictitious Titles, introduces a supernumerary Clergy into the Church, and is the Occasion of many Inconveniences."

7. "That

7. " That much Reproach is brought upon
 " the benefited, and much Oppression upon
 " the unbeneficed Clergy, by Curates accepting
 " too scanty Salaries from Incumbents."

A few Days after came out a Pamphlet, containing the rejected Propositions, a brief Explanation of One or Two of the Particulars, and a short Narrative of some extraordinary Passages, as to the Manner of rejecting them.

This is mentioned to introduce Dr. *Chapman's* Motion.

On the 20th of *May*, a learned Member opened his Sentiments to the House, as to the Fitness of their discussing, examining, and hearing any Matter properly brought before the House, as the Propositions of the Archdeacon of *Lincoln* must be looked upon to have been, since they were prepared by Order of the House: That as those Propositions were now in Print, (tho' he did not * approve the publishing them,) yet it was, in his Opinion, become more incumbent on the House, to give them a full Consideration.

Hereupon Dr. *Chapman*, Chaplain to his Grace of *Canterbury*, observed, " That the Publication of Matters, that had passed in this
 " House, pending the Synod, was irregular ;
 " that there were many Orders upon their Books
 " for keeping their Debates secret ; that he had
 " read the Archdeacon of *Lincoln's* Pamphlet,
 " and was of Opinion, that it was a Libel upon
 " on the Constitution ; repeating that Expression, that it was a Libel upon the Constitution, and referring to a Passage in the
 " Pamphlet, which he insisted was libellous upon
 " on the Constitution : " Then moved, " That
 " the Archdeacon should be censured," before
 his Propositions were taken under Consideration

* The Refusal of Audience made Resort to the Press excusable ; and so that learned Member seemed to admit.

tion. But before the House came to a Resolution upon either of these Motions, the Vice-Prolocutor intimated that the House was adjourned.

Thus this Essay is brought to a Pause. The Synod was indulged by his Majesty's Favour in a Length of Consultation exceeding the Term allowed to the Council of *Nice*, or the Synods which settled the Articles of 1562, or the Canons of 1603: Yet the only Proposition made about Business to the lower House, was rejected undiscussed, and the Introducer of it * threatened with Censures; tho' the Settlement of this Church is, in many Respects, merely provisional, as hath been fully shewn.

* Vide Dr. Chapman's Letter in the Appendix.

The Matters therefore intended for the Conclusion of this Essay, are reserved, till the Leaders in Synod are in Temper to hear a Language agreeable to the Principles of the Revolution.

F I N I S.

APPENDIX.

Dr. Reynolds's Letter to Dr. Chapman.

S I R,

Buckden, May 26, 1742.

HAVING found before I left Town that your Motion for a Censure upon me was universally understood — — — — —

I am not a little solicitous to set my Conduct in a more favourable Light than it can appear under the Disadvantage of — — — — —

— — — — — and am looking out for an Opportunity of Vindication, which was intercepted by the sudden Adjournment of the House. On this Account, I take the Liberty to enquire whether you propose to renew this Motion at the next Sessions; because if I may have the Favour to hear that you persist in that Design, I shall wait the Judgment of the House, and suspend all Thoughts of any other Method of Application.

I am S I R,

with great Respect,

Your very humble Servant,

G. REYNOLDS.

P. S. Unquestionably Mr. Vice-Prolocutor is well acquainted with his own Power; yet it may be pardonable to observe, that to prevent a Decision upon the Matter moved by Dr. Stebbing, and to debar you from convicting a Criminal, or the Criminal from a Right of being acquitted from your Charge, were not the necessary Duties of the Chair.

Dr.

APPENDIX.

Dr. Chapman's Letter to Dr. Reynolds.

Reverend Sir,

Lambeth, June 8, 1742.

I Received the Favour of your Letter in Regard to my late Motion, and should readily, were I able, let you know what I shall do upon it at the next Meeting. But as Circumstances meerly accidental drew it from me before, so 'tis possible the like Circumstances may incline or prompt me to it again; and at this Time I really do not know myself what Part I shall take.

If Dr. Chapman desires that the Interstices in both these Letters be filled up, it shall be complied with.

— — — — — In the mean Time be so kind to interpret me in what has past, as acting still with a real inward Respect towards Mr. Chancellor, and no Way disposed to Variances with him, being

very sincerely, with great Esteem,

Your most humble Servant,

J. CHAPMAN.

The

The INSTRUMENT referred to in
Page 48, to shew the Limitation
put upon Archiepiscopal Visita-
tions.

INNOCENS Episcopus Servus Servorum
Dei, venerabilibus Fratribus universis Episco-
pis Cantuariensis Provinciæ Salutem, et Aposto-
licam Benedictionem. Attendentes quod Provincia
Cantuariensis claris semper consuevit pollere Prela-
tis, qui Officii sui Debitum laudabiliter exequentes,
studuerunt circa Greges sibi creditos Curam impen-
dere vigilem et salubrem, visitando eos opportune,
ac in aliis provide gubernando. Considerantes eci-
am, quod Ecclesiæ seculares non collegiæ vestra-
rum Civitatum et Diocesum in quibus singulares
Rectores et Vicarii et nulli alii sunt Clerici instituti,
tum quia erga ipsos a suis Prelatis Sollicitudo debita
in Visitatione ac aliis adhibetur; tum quia in eis
Clericorum Collegia non existunt a Metropolitano
vestro quasi nunquam indigeant visitari, et propter
hoc ipsas Ratione Visitationis metropolitana in Pro-
curationibus aggravari nolentes, Vobis et eisdem
Ecclesiis de fratrum nostrorum Consilio Auctoritate
apostolica perpetuo indulgemus, ut idem Metropoli-
tanus ab ipsis Ecclesiis procuraciones, quæ Ratione
Visitationis dentur, nullatenus de cetero exigere,
vel eas Exactionibus pecuniariis aggravare valeat;
nec eadem Ecclesiæ ad illarum Exhibitionem aliqua-
tenus teneantur; decernentes quascunque Summas
talium Occasione Procuracionum vel Exactionum
contra easdem Ecclesias, vel Rectores et Vicarios
ipsos seu alios, dictus Metropolitanus aut alter ip-
sius Auctoritate tulerit vacuas penitus et inanes, ni-
si forte ad singulorum Requisitionem, vel de omnium
aut

*aut majoris Partis vestrum Consilio et Assensu illas
duxerit visitandas, et tunc secundum ipsarum Fa-
cultates moderate juxta Constitutionem nostram super
hac editam pro suis Procuracionibus expendatur.
Nulli ergo omnino Hominum liceat banc Paginam
nostræ Concessionis et Constitutionis infringere vel ei
Ausu temerario contraire. Si quis autem hac at-
temptare presumpserit, Indignationem omnipotentes
Dei, et beatorum Petri et Pauli Apostolorum ejus
se noverit incursum.*

In Registro
Decani & Ca-
pituli Lincoln.
Vocat. Lib.
Nig. p. 36.

INSTRUMENTS

INSTRUMENTS referred to in
Page 110, as Evidences that Ca-
thedral Churches were repaired
at the Expence of the Diocese,
and by a legal Assesment on
each House.

HUGO Dei Gratia Lincoln. Episcopus, om-
nibus Archidiaconis et eorum Officialibus per
Diocesin Lincoln, constitutis Salutem et Dei Bene-
dictionem. Cum Cura et Sollicitudo Lincoln. Ec-
clesiæ quam Deo Auctore regendam suscepimus, nos
admodum invitent, ea, quæ hætenus minus bene
fuerint ordinata, in meliorem Statum redigere;
Canonicorum ibidem Deo jugiter famulancium Com-
modo impofterum pro futuro invigilare tenemur;
movemur siquidem, nec illud clausis Oculis de cetero
preterire Possumus, quod et vos movere deberet et
non movet, ad quos specialius pertinet Cura et Sol-
licitudo Ecclesiæ Lincoln. quod cum tantam habeat
Filiorum Multitudinem, ipsi eam contempnunt, ut
saltem eam semel in Anno, secundum Consuetudinem
Ecclesiæ nostræ, quæ in aliis Ecclesiis Episcopalibus
celebris habetur, eam in propria Persona, vel de
suis Facultatibus condignas Oblationes mittendo,
negligant visitare. Quod quidem ex Negligencia
Clericorum, potius quam Laicorum Simplicitate,
novimus accidisse. Quocirca Universitati vestræ
Auctoritate qua fungimur præcipimus, quatenus
Decanis, personis, presbiteris per nostram Diocesin
constitutis in Virtute Obedientiæ injungatis, ut in
singulis parochiis singuli Capellani fideles sibi com-
missos ad hoc sufficientes Auctoritate nostra indu-
cant, quod de singulis Domibus aliqui in Festis
Pentecostes ad Locum consuetum et processionibus
destinatum

Martilog. MS.
in Reg. D. et
C. Lincoln.
f. 2.

destinatum singulis Annis satagant convenire, Oblationes condignas, &c. in Signum Obedientiæ et Recordationis matricis suæ Lincoln. Ecclesiæ offerentes.

A fuller Process in Bishop Sutton's Time.

Reg. Sutton.
169.

O, &c. Decanis, &c. *Ab antiquo in nostra Diocesi Consuetudo laudabilis inolevit, et inolita per Continuationem Temporis inibi (partibus vestris de novo duntaxat exceptis) suscepit hactenus Incrementum, videlicet quod singuli Decanatus dictæ Dioceſeos Summas pecuniæ de singulis parochiis Decanatum suorum ad opus Fabricæ Ecclesiæ nostræ, immo totius Dioceſeos Cathedralis pie collatas, coacervantes illas in Ecclesia prædicta statutis ad hoc Temporibus præstare solebant. Set ecce Auribus nostris nuper insonuit, quod de Decanatibus vestris pro Anno præterito ad tam pium Opus et Structuram, adeo venerabili Stemmata propagatam, per vos nil erat penitus persolutum, quod utique non tam in Devotionem Subditorum, quam vestræ Negligentiæ sub pallio Excusationis utinam non in peccatis velatæ est ut dicitur merito imputandum. Ceterum quis unquam obnoxius Culpæ Spem Veniæ presumit habere, qui in Obsequio Matris Gratiæ et Auctricis Salutis, patronæ Ecclesiæ prædictæ indevotum et negligentem se reddit? Quocirca vos monemus et hortamur in Domino, vobisq; in Virtute Obedientiæ firmiter injungendo mandamus, quatenus Rectores Vicarios et Capellanos parochiarum Decanatum vestrorum super hujus Subſtractione Subventionis Fabricæ, Obstaculo Dilationis sublato, efficaciter alloquentes, circa Contributionem dicto Usui more solito faciendam, et aliam promotionem per Legata in Testamentis de cætero per Eoca faciendis similiter procurandam, efficacem Operam adhibere curetis: Culpam vestram præteritam in hac parte per Diligentiam futuram purgantes; ne*

vos,

A P P E N D I X.

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vos, seu Homines partium vestrarum præ ceteris nostræ Dioceſeos de Ingratitudine erga Eccleſiam prædictam notari contingat: et ob hoc de alio Remedio adhibendo nos oporteat cogitare. Vos autem quid ſuper hiis facere decreveritis nos circa Feſtum ſancti C. reddatis certiores, per Literas veſtras patentes harum Seriem continentes. Dat. apud Netelham undecimo Kalendarum Decembris, Anno Domini, 1297.

The like Proceſs to the Archdeacon of Northampton, 1317. Ibid. F. 362.

A clearer Explanation of the Uſes for which Pentecoſtals were deſigned.

Ordinatio Johannis Chadworth Episcopi Lincoln. de Conſenſu Capituli, A. D. 1453.

Imprimis, quod ubi in quolibet Archidiaconatu Lincoln. Dioceſeos ſolebant reddi matriſi Eccleſiæ de ſingulis Domibus cujuſlibet Parochiæ ſinguli Quadrantes pentecoſtales in Signum Subjectionis matriſi Eccleſiæ, quæ olim attingebant annuatim ad ducentas Libras et ultra. Jam autem hiis Diebus Modicum ſive Nil pervenit de hujusmodi Quadrantibus ad Eccleſiam prædictam nec a longis retroactis Temporibus ſic pervenit: Concordatum eſt per Decanum et Capitulum dictæ Eccleſiæ in præſentia reverendi Patris Domini Lincoln. quod idem reverendus Pater Exemplo ſancti Hugonis ibidem Provocatus, conceſſit gratioſe ſcribere omnibus Archidiaconis ſuis et eorum Officialibus infra Dioceſin ſuam Lincoln. ubilibet conſtitutis pro dictis Quadrantibus pentecoſtalibus dictæ matriſi Eccleſiæ Lincoln. levandis et colligendis, attenta laudabili Conſuetudine ac Poſſeſſione ejuſdem Eccleſiæ in ea Parte ab antiquo uſitatis. Lib. D. in Reg. D. et C. Lincoln. F. 33.

And accordingly the following Proceſs iſſued.

Johannes Permiſſione divina Lincoln. Episcopus dilectis in Chriſto Filiis Johanni Gilbert Decretorum Doctori noſtroq; in Archidiaconatu Oxon.

Com.

Commissario Generali, et Georgio Warde in utroque Jure Baccalaureo Salutem Gratiam et Benedictionem. Cum omnes et singuli Rectores, Vicarii, et alii quicunque Beneficia ecclesiastica infra nostram Diocesim Lincoln. obtinentes, necnon omnes alie utriusq; Sexus persone ad hoc petentes, ac in Rebus et possessionibus sufficientia infra Diocesim nostram antedictam Domicilia tenentes et Larem foventes, Ecclesiam nostram cathedralem beatæ Mariæ Lincoln. saltem semel singulis Annis in Festo Pentecostes cum solemnî Processione personaliter adire, et eam visitare, Debitumq; suæ Devotionis imbibere facere, et in summo Altari ejusdem Ecclesiæ nostræ cathedralis Oblationes condignas in Remissionem peccatorum suorum, ac in Signum Obedientiæ et Recordationis suæ Matricis Ecclesiæ offerre, tam de Jure Statutorum, quam de antiqua, laudabili, legitimeque præscripta Consuetudine debeant et teneantur, nisi à personali Accessu hujusmodi legitime fuerint impediti; quo Casu ad eandem Ecclesiam nostram certum tenentur mittere Nuntium, qui eorum Vices suppleat in hac parte, eandem Ecclesiam nostram visitando, et Oblationes condignas in Altari prædicto debite offerendo.

The like Processes issued to the other Archdeacons of the Diocese.

ERRATA.

PAGE 3 in the Note, for *Lerin*, read *Lirin*. Page 8. l. 24. Dele *to a general Council*; for *M. Paris* in the Marginal Note, read *Knighton*, Col. 2436. Page 9, l. 27, for *Pecham*, read *Occham*. Page 19, l. 33, for *Aquiescences*, read *Aquiescence*. Page 26 in the Note, after *Bacon*, p. 43, 54, add 37. Page 31, l. 15, for *Righis*, read *Righi*. Page 32, l. 30, for *on*, read *or*. Page 102 in the Marginal Reference to *Wood*, for p. 181, 2, read 214. Page 106, in the Marginal Reference, for p. 81, read 181. Page 124, l. 9, for 1521, read 1526. Page 157, l. 2, after *Administration*, add in *Appearance*. Page 196, l. 17, after the Word *Complaint*, add, *to be made*. Line 20, instead of *was*; read, *read*, may stand thus,

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THE
Modern Husbandman,
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For the Month of May.

Containing the following Particulars, viz.

1. Of Ploughs and Plowing. 2. Of Barley, Wheat, &c. 3. Of Weeds, and their Cure. 4. Of Manures and Dressing proper for this Month. 5. Of Artificial Grasses. 6. Of Bulls, Cows, and Calves. 7. Of Cheese. 8. Of Butter. 9. Of Hogs. 10. Of Sheep. 11. Miscellaneous Matters in Husbandry. 12. Of Turneps; a farther Account of them. 13. Of making and repairing Roads. 14. Of Horses, Mares, and Colts. 15. Of Trees and Insects.

The Modern Husbandman for the Month of June.

CONTAINING,

1. **A** Description of, and the Uses of, the excellent Three-wheel and Pulley Drill-Ploughs, several Sorts of Horse-breaks and Hand-Instruments, as they are now employed by common Farmers, for improving their Crops of Wheat, Barley, Pease, Beans, Rapes, Weld, Coriander, Carraway, Canary, Seeds of Trees, Turneps, Hops, and other Vegetables, in the cheapest and most profitable Manner. 2. Of the Furniture of a Dairy, and the Making of Butter and Cheese, according to the different Practices of several Counties: To which is added, an Account, how the sweetest of Butter may be made from Milk taken directly from Cows, though they be fed with a particular Sort of Artificial Grass; and also how to make some of the best of Cheese from the Butter-milk of

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of the same, as it was presented to the *Royal Society*, by a Gentleman who got an Estate by the constant Practice of this Method; and whereby the poorest Ground may be advanced to the highest Value. 3. The true Way of suckling House-Lambs as it is performed by the Meadow-farmer and the Plough-farmer, so plainly wrote of, that those who never saw this Work done, may easily become Masters of this curious Art, by which Cities and great Towns may cheaply enjoy this delicate Meat. 4. Of proper Plowings, necessary to be done in *Chiltun* and Vale-lands, in this Month. 5. A large Account of making natural Hay, and its preservation from Firing and other Damage. 6. Of Shearing Sheep. The Nature and Value of the several Sorts of Wools of *Great Britain* and how it is run to *France*. 7. The unfortunate Death of a Lord of a Mannor, that was killed by his own Bull; and how a Black-Moor, in *Buckinghamshire*, killed a Savage Bull with only a Bag of Nails. 8. The several Benefits of keeping the Pole, or hornless Breed of Cows and Bulls, as it is now done by several Gentlemen. 9. The Management of a Crop of Turnep-feed, and of Sowing Turneps in this Month. 10. The Improvement of Corn, Hops, Cows, Calves, Sheep, Lambs, and Bees. 11. Eighteen Ways of keeping off and destroying Rats and Mice; and the Case of a Horse, who was near being killed by Rats poisoned with Mercury: With many other curious Cases, and serviceable Matters.

The Modern Husbandman for the Month of July.

CONTAINING,

1. **T**HE several Sorts of Plowings necessary to be performed in this Month, in different Soils and Countries. 2. How several Farmers broke in one Farm, by wrong plowing their Ground, and how a present Tenant thrives by plowing it right; with Cases relating thereto. 3. A sure Method to secure an Acre of Turneps, Coleworts, Weld, Flax, and many other Vegetables, from the Damage of Flies, for Three-pence Charge, by only preparing the Seed. 4. Several experienced Ways to make Rapes, or Coleworts answer to great Profit. 5. How to make a prodigious Advantage by sowing Turnep-feed, Cole-feed, and Weld-feed together, in a particular Soil and Situation. 6. Different Manners of Cutting and Inning several Sorts of Pease. 7. Of Sowing, Cutting, Inning, and other Things relating to *French* Wheat. 8. How to make a Calf's Flesh white at Home, and also while it is on Sale at Market; and to cure several Distempers in Cows. &c. 9. To prevent and cure Diseases in Sheep, Hogs, and Horses. 10. Of Bees. 11. How to make excellent Cheese from Clover-grass. 12. The best Way of all others to make Salt Butter fresh. To pot Butter: With other
New

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New Secrets for improving a Dairy. 13. To keep Eggs a long Time sound, by four several Ways. 14. What is necessary to be done in the Hop-Garden in this Month, by which several curious and profitable Matters are discovered. 15. How three several Farmers pay their Rents by breeding tame Pheasants, wherein, by large Accounts, are shewn their ingenious cheap Ways of doing it. 16. The Method of breeding mottled or white Peacocks. 17. How to discover where Peat is to be found, with ample Accounts of the vast Improvements that have accrued by is cheap Ashes made at *Newbury, Langley, &c.* by which Thousands of Acres may be put to this Use, to the great Advantage of Farmers, and to the immense Profit of Great Britain, Ireland, and our Plantations Abroad.

The Modern Husbandman for the Month of
August.

CONTAINING,

1. **T**HE present Practice of the best Managers in getting in Wheat Crops. 2. Curious Cases relating to Wheat-Crops.
3. Six several Ways of curing wettilsh or damp Wheat-Ears. 4. How Farmers may advance their Corn Four Pence or Six Pence a Bushel. 5. Experienced Cases in the Improvement and getting in of Rye, Barley, Oats, Pease, Beans, Canary, Coriander, Caraway, and other Crops of Grain. 6. Of a Flax Crop, and how to improve it, after it is got in, to the greatest Advantage. 7. A new Method of greatly improving a Crop of Clover, while it is feeding in the Field. 8. Plowings necessary to be performed in several Countries in this Month. 9. Of Hop-Plantations for *August*, and the *Middlesex* Farmers Management of their second Crop of Hay. 10. A large Account of managing Bees in this Month. 11. How Cattle died of the Murrain in 1736, and a famous Receipt to cure or prevent it, with many other serviceable Matters never before published.

The Modern Husbandman for the Month of
September.

CONTAINING,

1. **T**HE different Ways of Plowing, and other Managements preparatory to the sowing of Wheat in Vale and Chiltern Lands; also, the Method of sowing several Sorts of Wheat-seeds in their proper Soils, in Drills, in Bout, in Ridge, or and in Broadlands. 2. Eighteen several Cases, proving, how Wheat becomes smutty,

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smutty, and how to prevent a Farmer's having smutty or Pepper-wheat. 3. Several curious Observations relating to the sowing Clover, and other Grass-lays, and Stubbles with Wheat. 4. To sow Rye for a standing Crop, or for feeding Cattle on its green Food in the Field. 5. The Pulling and Inning of Flax and Hemp, with many Reasons to shew how they may be improved at Home in the highest Perfection; also, the Nature and Value of *Italian* and *Russia* Hemps. 6. The Picking of Hops, and curing them on the Cockle-Oast, and other Kilns, with an Account of their good and bad Qualities. 7. The *English* and *Irish* Ways of digging and preserving Potatoes in the hardest Frosts, and of the great service that the *Cassonian* or *Munster* Potatoe did to the *Irish*, in the Famine of 1740. 8. How a Crop of *St. Foyne* may be enjoyed a Year sooner than in the common Way of sowing it. 9. How the Gipsy and another Sort of Vagrants prejudice the Farmer, with a History of their Lives and Actions. 10. The Profit of sowing the Winter-Thetch in this Month, and of gathering and drying Saffron. 11. The great Advantage of Inclosure, shewn by the Example of Inclosing a common by Act of Parliament, to the mutual Satisfaction and Profit both of the rich Lord of the Manor, and the poor Commoner. And, also of the infinite Damage they do the Poor and the Farmer, and the Guilt they load themselves with, who unlawfully and unjustly inclose and detain Commons from them.

To which are added,

Many other curious and serviceable Matters, never before published.

The Modern Husbandman for the Month of October.

CONTAINING,

1. **T**HE Character of many Sorts of Wheat for sowing them in proper Soils. 2. Of Dressing, Plowing, and Sowing Wheat-Seed in different Countries. 3. Several Cases, proving the Benefit of changing Wheat-feed. 4. To prevent the Degeneracy of Wheat-Seed. 5. Several Ways to prepare Wheat-Seed for Sowing. 6. How one Gentleman got good Crops of Grain, and another bad Crops, by using one Sort of Manure. 7. Observations on *Dr. Plou's* Discourse on Husbandry. 8. Of Landlords Letting, and Tenants Taking Farms, with curious Cases relating to the same. 9. Of making and managing a Liquorice-Plantation. 10. The Advantages of buying in *Welch* Sheep by Farmers. 11. Of Fairs and Statutes for hiring Farmers-Servants, with their several Characters. 12. A large Account of Tythes, being Queries about them, with Answers by *Sir Constantine Phipps*. 13. Of several Law-Suits about Tythes. 14. Ill Servants, their Prejudice to Farmers, with Observations on the Causes of their being such.

To which is added.

Many other curious and serviceable Matters, never before published.

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